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Current Topics.

Mr. Dighton Pollock.

NEWS OF THE sudden and premature death of Mr. DIGHTON POLLOCK came as a great shock, and was received with general and sincere regret, particularly in Lincoln's Inn. The late Junior Counsel to the Treasury had, by his personal charm, endeared himself to all members of the profession as well as to a large and varied circle of friends. His courtesy and fairmindedness, allied with a sound knowledge of the law, made those who knew him look forward with confidence and pleasure to the work he would have so admirably performed on the Bench. The many tributes paid to his personality and work have all struck a note of affection and sincerity. In a letter to *The Times*, Lord BUCKMASTER appropriately expresses the feelings of those who had the good fortune to be associated with Mr. DIGHTON POLLOCK in his work or who had the privilege to count him as a friend: "Others have had similar careers and many more dazzling. It was in the charm of his personal relationships, the fidelity of his friendship, and the affection he gave and inspired that he was supreme. His generosity to the poor, his help to all in difficulty, his integrity and unselfishness, were characteristics of a nature singularly lovable and much beloved. Those who knew him well are the better for the knowledge and immeasurably poorer for his loss."

Impersonal Payees.

AT ONE TIME it was not uncommon, and even still it is occasionally the practice, for cheques drawn for the purpose of paying wages or to provide petty cash to be made payable to "wages or order" or "petty cash or order." Whether the banker on whom such cheques are drawn is entitled to treat them as payable to bearer has been discussed by writers on banking law, but there appears to be no English decision definitely dealing with the point. Quite recently, however, in Alberta a court has held that a cheque payable to "cash or order" is payable to bearer, with the consequence that no indorsement is necessary: see *Judmaier* v. *Standard Bank of Canada*, 1927, 1 W.W.R. We believe this to be in accordance with the usual practice of bankers who, however, have deprecated cheques being drawn in favour of impersonal payees. JAMES PAYN, the novelist, tell us in his delightful "Some Literary Recollections" that one of his publishers, in paying him for his writings, insisted upon making the cheques payable to the name of the particular work of fiction or bearer, with the result that PAYN was considerably embarrassed on one occasion by having to pay into his bank a cheque drawn in favour of "The Family Scapegrace." On another occasion, he received from the same facetious publisher a cheque in favour of "Found Dead." This was too much for the sense of professional propriety of the bank cashier, who said: "It's fortunate, sir, that this cheque is not payable 'to order,' or it would have had to be indorsed by your executors." When PAYN mentioned the incident to DICKENS, the latter was greatly amused and added that he would not like to keep his money at a bank which had so clever a cashier as that. Humour is all very well, indeed it is the salt of life, but there is something to be said against its introduction into cheques.

Policemen as Experts in Drunkenness.

MR. BINGLEY, at the Marylebone Police Court, heard, on the 2nd inst., a charge of being drunk in charge of a mechanically propelled vehicle. The police surgeon said the accused was drunk, the prisoner's own doctor said he was not, not an unusual divergence of expert opinion. Mr. BINGLEY, in giving judgment, said that the committee which had recently reported on tests for drunkenness had not enunciated anything which was helpful to magistrates in their decisions. He himself was inclined to think that the constables on the spot, who were always dealing with these cases, were the best judges whether a man was drunk. They knew at a glance. There is, of course, a measure of truth in this judicial pronouncement, but, as reported, it will not increase confidence in the bench. It is the complaint of the motorist that the constable, who, no doubt, can tell most cases of drunkenness at a glance, is, by no fault of his own, but for want of the scientific training he has never had, liable to mistake unusual conditions of health, coupled with a smell of alcohol, for intoxication. Of course, this defence is set up *ad nauseam*, but it is occasionally true, and then the evidence of medical men is essential if a miscarriage of justice is to be avoided. It is possible to be too contemptuous of the expert witness. Under control, he is an aid to justice. It is only fair to point out, too, that the committee's report, which, as we have not hesitated to say, is open to severe criticism on some grounds, is thoroughly sound on the means of discriminating illness from drunkenness, and on the actual tests to be applied to determine the latter. It is meant more for the guidance of the doctor than of the judge.

Photographs in Evidence.

IN A CASE before the Recorder at the Central Criminal Court, reported in *The Times* of the 18th ult., the question was raised of the admissibility in evidence of certain photographs of an incriminating nature taken by the police of accused persons. The Recorder ruled that if the photographs were taken with the consent of the accused they were admissible in evidence. But to rest their admissibility upon consent is to apply an unsound criterion. Clearly, if the photographs were taken by surprise, without communication of any kind by the police with the accused, the photographs would be as much admissible in evidence as a verbal description given

by an eye-witness, and their actual value as evidence would probably be considerably greater. This aspect of the matter was, however, not the one directly under discussion before the Recorder, the question really being whether photographs of accused persons posed under duress would be admissible, or whether their consent was necessary to validate the evidence. The Recorder implied that the photographs were not admissible if taken of persons under compulsion. Presumably, he would treat such photographs as analogous to forced confessions. But the reason for excluding confessions made in consequence of threat or promise is their unreliability, and not, as some people seem to think, a fanciful notion of "playing the game." That notion has its proper place in regulating the conduct of the police, not in excluding evidence which, if reliable, may be very much in point, however improperly it may have been obtained. This view of the matter appears quite clearly in the case of *R.* v. *Gould*, 1840, 9 C. & P. 364, where the accused, charged with burglary, made a confession, not voluntarily. Part of that confession was that the accused had thrown a lantern into a pond. The lantern was fished out, and thereupon the part of the confession relating to it was admitted in evidence. As STEPHEN puts it in his "Digest of the Law of Evidence," Art. 22, "Facts discovered in consequence of confessions improperly obtained, and so much of such confessions as distinctly relate to such facts, may be proved." Of course, if the police posed accused persons in particular incriminatory attitudes, photographs then taken would be properly excluded, certainly as irrelevant and worthless, and probably as being in the nature of forced confessions. But here they wished only to show the actual costume being worn by the accused, and there can be no reasonable doubt that, taken with or without consent, the photographs offered in evidence for that purpose would be admissible, however open to animadversion the police might be if they took them without consent. The Recorder held that the photographs were taken with consent, and that the police did what was right and proper in taking them.

Warranty of Seaworthiness.

WHILE THE Carriage of Goods by Sea Act, 1924, has considerably modified the common law rule that a shipowner, unless protecting himself by an express exception, warrants the seaworthiness of his ship at the commencement of the voyage, it is well to bear in mind that that modification is applicable only to the case of a shipment under a bill of lading. If a bill of lading is issued in respect of goods laden on the ship, the carrier's obligation is, by the Act of 1924, "to exercise due diligence to make the ship seaworthy"; if no bill of lading is issued, the absolute warranty of seaworthiness still operates in favour of the shipper. In *Reed & Co.* v. *Page, Sons & East*, recently before the Court of Appeal, the question arose as to the seaworthiness of a barge on which a cargo of wood pulp was loaded, and in respect of which, there being no bill of lading, the old rule of absolute warranty applied. There, the lightermen did not, and, of course, could not, contest their obligation to supply a barge that was seaworthy to take delivery of the cargo from the steamship which had brought it to the Thames; the question was as to the continuance of the warranty beyond the time when she reached the steamer, when, admittedly, she was seaworthy. What happened was that owing to some negligence the barge was so overloaded that she sank, while still alongside the steamer waiting to be towed, and the cargo was lost. It was contended for the lightermen that the doctrine of stages—that is, the doctrine which requires that a vessel upon entering each stage of her voyage shall be seaworthy—does not apply to a barge seeing that no change in her equipment is necessary, and, therefore, that the warranty in their case was exhausted when the loading commenced; but that even if the doctrine of stages did apply, the barge was seaworthy during the first stage, and the second stage—the commencement of the actual voyage—had not begun. Neither ROCHE, J., who tried the case, nor the Court of Appeal would accept this contention. In their view the loading having been completed, the barge had to be, and was not, seaworthy for the stage of lying in the river waiting for a tug to tow her, and still less was she seaworthy for the actual operation of towage, and that being so the London Lighterage Clause which exempted the lightermen from loss by negligence could not override the fundamental obligation to provide a barge that was seaworthy, not only when the loading commenced, but also at the stage she had reached in the carrying out of the employment.

The Right to a Special Jury.

ATTENTION MIGHT usefully be drawn to *R.* v. *Presiding Judge of the Liverpool Court of Passage* (*Times*, 8th ult.), which raised the question of the right to have a running-down case tried by a special jury. The learned judge of the Liverpool Court of Passage was of opinion that the case might as well be tried without a jury, observing that it was scandalous that business men should be brought to try ordinary running-down cases with no business features. The Divisional Court, however, were unanimously of opinion that the case should have been tried with a special jury. It may be convenient to give a brief summary of the practice relating to trial by jury in the High Court. The effect of the Judicature Act, 1925 (cf., s. 99 (1) (*h*)), was to restore the former practice with regard to trial by jury, before it was altered by the Juries Act, 1918, and the Administration of Justice Act, 1920, and to give parties in pure common law actions the right to insist on trial by jury.

Order 36, r. 2, now provides that "In every cause, matter, or issue, unless under the provisions of Rule 6 of this Order a trial with a jury is ordered, the mode of trial shall be by a judge without a jury . . ." By r. 6 of O. 36, "in any cause, matter or issue, other than those mentioned in Rules 3, 4, 5 of this Order (36), upon the application (not later than ten days after the close of the pleadings, or where there are no pleadings at the time of or within ten days after the order directing the mode of trial), of any party thereto for a trial with a jury of the cause, matter, or issue, an order shall be made for trial with a jury." Now r. 3 refers to actions assigned to the Chancery Division by s. 56 of the Judicature Act, 1925, and r. 5 refers to causes, etc., requiring a prolonged examination of documents, accounts, etc. These two rules do not give rise to any great difficulty. Rule 4, however, refers to "any question or issue of fact, or partly of fact and partly of law, arising in any cause or matter which immediately before the 1st November, 1875, could without any consent of parties, have been tried without a jury," but does not expressly enumerate what these cases are. At any rate, pure common law actions do not come within r 4.

The effect of r. 6 therefore, taken in conjunction with the other rules, is that in pure common law actions a party has the right to insist on trial by jury, if he makes an application for that purpose within the time prescribed by r. 6. After that period has expired his right is no longer absolute, but it is still within the discretion of the court to order a trial by jury. In other cases, i.e., cases falling within rr. 3, 4 and 5, the court has a discretion as to whether the actions, etc., should be tried with or without a jury.

Where a litigant is entitled to a common jury, he may claim as of right trial by a special jury instead, in accordance with O. 36, r. 9. The effect of that rule would appear to be, that in cases falling within r. 6, there is no difference between the right to claim a common and the right to claim a special jury. A special jury can be insisted on if the application is made within the time limit imposed by r. 6; after the expiry of that time limit, however, the matter is one for the discretion of the court. With regard to other actions, etc., i.e., those coming within rr. 3, 4 and 5 of Ord. 36, it would seem that the application for a special jury must be made at the time when the mode of trial is fixed.

Death Duties.

II.

By H. ARNOLD WOOLLEY.

(*Author of "A Handbook on the Death Duties."*)*

(*Continued from p.* 150.)

The Death Duties are now so heavy that this branch of the solicitor's work may be said to have become perhaps the most important with which he is called upon to deal. In many offices several members of the staff devote their whole attention to Probate and Death Duties business, and in practically every office of important size there will be at least half-a-dozen estates under the eye of the Estate Duty Office at any given time. The law relating to the duties is so involved and the practitioner has so many other branches of the profession to demand his attention, that it can scarcely be a matter for wonder if mistakes occasionally occur, and mistakes may be exceedingly costly to the client with duties at the present excessively high rates.

Fortunately for solicitors and the public, the Estate Duty Office is not only a highly efficient department, but its officials show a sense of fair dealing and courtesy which provides a guarantee that illegal claims will be comparatively few and far between.

Nevertheless, the writer has on several occasions been able to detect important mistakes in claims received from the Revenue, with the result that considerable sums have been saved to clients. It is, therefore, of great importance, and now more important than ever, that solicitors should be thoroughly conversant with the subject, as, no doubt, most are. Technical familiarity is required for advising not only after the death, but before it, so that the client may be guided in the direction of preserving as much as he can of his estate for his family and dependants. Some of the methods which are open to the end of legally avoiding duty were indicated in the previous article of this series, and the following remarks may be added in connexion with the preparation of a testator's will :—

(1) Where annuities are bequeathed, be careful to give the executor full discretion as to whether he (*a*) buys an annuity, (*b*) sets aside securities to meet the annuity by the income thereof, or (*c*) pays the annuity year by year out of the general income of the residuary estate. For the reasons stated in the previous article, it may be very advantageous to the residuary legatees that the annuity should be bought outright, so as to save heavy duties on the annuitant's death. Annuities should not be charged upon land, for if they are, altogether excessive claims may arise on the annuitant's death.

(2) If legacies (as distinct from annuities) are given for life only, the will should expressly provide that all Death Duties to arise in respect thereof on the life-tenant's death are to come out of the legacy, and not out of the testator's estate. This is advisable in order to prevent the necessity for keeping back part of the testator's residuary estate to meet the duties, the rates of which cannot be estimated in advance.

(3) If the deceased is domiciled abroad, the will should state so. Although, of course, the Revenue will not accept the statement by itself as conclusive, it is, when taken in conjunction with other evidence, a strong point in favour of the executor's claim.

(4) Heavy Legacy and Succession Duty may be saved by giving benefactions intended for persons or charities liable at 10 per cent. rate, to persons liable at 1 per cent. rate for distribution. (See previous article.)

(5) Furniture, silver and valuables not producing income may with great advantage be settled on members of the family in succession. (See previous article.)

(6) In settling property on a husband and wife for life, be careful not to give the survivor a general power of appointment, but a special one only. If the power is a general one (whether it be exercised or not), the exemption from Estate Duty on the death of the surviving spouse under Finance Act, 1914, s. 14, will not apply, and full Estate Duty will become payable. This may be a very serious matter for the children.

(7) If the testator makes a number of bequests and devises, and then gives the residue of his estate to near relatives or others whom he desires to take a substantial benefit, make sure that there will be a residue. It is better to give a residuary legatee an ordinary legacy, as well as residue, so that if there is a deficiency all may abate equally. The writer has recently administered the estate of a wealthy lady who gave numerous bequests and divided the residue amongst nine relatives whom she intended to receive something like £5,000 apiece. They were all needy and worthy recipients, but what they actually received was less than £50 each ! The Death Duties had been so heavily increased since the will was made that the residue had practically disappeared, and it was solely due to an exceptionally favourable realisation of deceased's furniture that there was any residue at all. It is desirable to look through the wills of clients still living made prior to the Finance Act of 1925, and, in suitable cases, to inquire whether they desire to modify their dispositions in any way. It may have happened that an elderly or infirm person has lost testamentary capacity and cannot alter the will, and in such cases the residuary legatees must sit and see the State take what was intended for them. As the law stands, the Estate Duty on the whole free estate, except freeholds, is payable out of the residuary estate.

The following specimen case is taken from a number of cases given in "A Handbook on the Death Duties," recently published by The Solicitors' Law Stationery Society.

The various claims are set out in detail, and the notes appended will, it is hoped, assist in drawing attention to a few of the many important points arising.

A is a widow, domiciled in England. Her husband B died in 1915.

Estate Passing.	Value.	Beneficiaries.
FREE ESTATE.	£	
(1) Freehold house in Essex ..	20,000	A's nephew.
(2) Leasehold house in London ..	10,000	A's niece.
(3) Freehold villa on the Riviera	—	Not liable and not aggregable.
(4) Net personalty (moveables) in England	150,000	Nephews and nieces, £50,000; Cousins, £50,000; Charities, residue. Legacies given duty free.
(5) Furniture in France, £3,300, less debts and Death Duties payable there	3,000	A's niece.
(6) Advowson in Essex	—	Not liable and not aggregable.
SETTLED ESTATE.		Remarks.
(7) Silver and pictures settled by B by deed on A for life and then on her sister for life	25,000	A certificate that these articles were of national, etc., importance, was applied for, but refused by the Treasury.
(8) Stocks settled in 1910 by B on himself for life, then A for life, and then to such of their children as A or B should appoint, and in default of children to his brother C. There were no children; so C takes	50,000	Estate Duty was paid on B's death, and A is not "competent to dispose." Exempt under Finance Act, 1914, s. 14 (see note (*j*) below).
(9) A enjoyed an annuity of £1,000 a year payable out of her late uncle's residuary estate, under his will	20,000	See note (*k*) below. Aggregable with A's estate for purpose of rate.
(10) Personalty settled by will of B's father, who died in 1891, on B for life, then A for life, and then as survivor appoints. A appoints whole between B's six nephews (grandsons of the settlor)	30,000	Aggregable, although the settlor died before 1894, because A had a general power, and was therefore "competent to dispose."
	£308,000	

The rate of Estate Duty is based on £258,000 (not on £308,000), because Fund (8) of the value of £50,000 is not aggregable. See note (*j*) below.

CLAIMS ARISING.

Nature of Claim.	Reference to Notes below.	Rate of Duty.	Amount of Duty.
FREE ESTATE.			£ s. d.
Estate Duty on (1)	(*a*)	25	5,000 0 0
,, ,, ,, (2)	(*b*)	25	2,500 0 0*
,, ,, ,, (4)	(*c*)	25	37,500 0 0*
,, ,, ,, (5)	(*d*)	25	750 0 0
Succession Duty on (1) ..	(*e*)	5 (on £15,000)	750 0 0
,, ,, ,, (2) ..	(*f*)	5 (on £7,500)	375 0 0

*The Solicitors' Law Stationery Society, Ltd., price 7s. 6d. net.

Nature of Claim.	Reference to Notes below.	Rate of Duty.	Amount of Duty.
FREE ESTATE.			£ s. d.
Legacy Duty on (4) ..	(g)	5 (on £50,000)	2,500 0 0*
		10 (on £50,000)	5,000 0 0*
		10 (on residue, £1,000)	100 0 0
,, ,, ,, (5)	(h)	10 (on £2,250)	225 0 0
SETTLED ESTATE.			
Estate Duty on (7)	(i)	25	6,250 0 0
Succession Duty on (8) ..	(j)	5	2,500 0 0
Estate Duty on cesser of (9) ..	(k)	25 (on, say, £20,000)	5,000 0 0
Estate Duty on (10)	(l)	25	7,500 0 0
Legacy Duty on same ..	(m)	10 (on £22,500)	2,250 0 0
		Total ..	£78,200 0 0

* Payable out of residuary estate. Total £47,500. Add administration expenses £1,500, total £49,000, which being deducted from £50,000 (gross residue) leaves only £1,000 net residue.

NOTES.

(a) Payable by instalments over eight years. Payable by the devisee, but the executor is responsible to Revenue for duty (L.P.A., 1925, s. 16).

(b) Payable out of the residuary estate (not by legatee), and before obtaining probate.

(c) Payable out of residuary estate, and must be paid before probate obtained.

(d) The executor is liable to Revenue for duty, and must pay it on applying for probate (F.A., 1894, ss. 6 (2) and 8 (3)), but he can recover it from the beneficiary, and the duty is not payable ultimately out of the residuary estate, because foreign property does not pass to the executor as such " (*In re Scull; Scott* v. *Morris*, 1917, 118 L.T. 7 C.A.) See F.A., 1894, s. 9 (1).

(e) Payable by instaments over eight years (see note (a) above). Payable on £20,000, less £5,000 Estate Duty = £15,000.

(f) Payable on £10,000, less £2,500 Estate Duty = £7,500.

(g) The pecuniary legacies are expressly given duty free; the Legacy Duty therefore comes out of the residuary estate, which is reduced to £1,000 (see * above).

(h) Legacy not given free of duty, so duty payable by legatee. The legatee (not executor) accountable to Revenue, unless property sent here before probate.

(i) The settlement trustees (not executor) accountable to the Revenue. Duty payable out of the property (not out of residuary estate). No Succession Duty payable until sold, or until death of some one competent to dispose.

(j) No Estate Duty (F.A., 1914, s. 14). Not aggregable (*Att.-Gen.* v. *Earl Howe*, C.A. " Law Times," 11th July 1925; W.N. 1925, p. 199). B is the " predecessor " for ascertaining rate of Succession Duty, which is payable out of the fund.

(k) It is assumed that the value of the " slice " of the uncle's residuary estate producing the annuity is agreed with Revenue at £20,000. The duty will be 25 per cent. and be payable out of the uncle's residuary estate.

(l) Although A had a general power, the duty is payable out of the fund (not out of A's residuary estate), and the trustees of the settlement are accountable (*Re O'Grady; O'Grady* v. *Wilmot*, 1916, 2 A.C. 231).

(m) Payable on £30,000, less £7,500 Estate Duty = £22,500. If the power had been a special instead of a general one, the grandfather would have been " the predecessor," and the rate of Legacy Duty would have been 1 per cent. only instead of 5 per cent.

(To be continued.)

Criminal Records.

BY ALBERT LIECK.

(Chief Clerk, Marlborough Street Police Court.)

THERE is a general lack of knowledge among legal practitioners upon the subject of criminal records, for, although there is a good deal of published information on the subject, it is scattered here and there in text-books dealing with other matters and in miscellaneous reports not usually read by busy men. Although there is nothing actually new in the following information, it is hoped that its statement in a concise yet comprehensive form will be found useful.

The Criminal Record Office at Scotland Yard keeps the following records:—

Photographs, finger prints, description and particulars of all licence-holders, supervisees, and persons subject to s. 7 of the Prevention of Crimes Act, 1871, and of all other persons sentenced at assizes or quarter sessions to imprisonment for one month or more, except for a few minor offences;

Finger prints, description and particulars of all persons sentenced in courts of summary jurisdiction for any offence included in a list which has been enlarged from time to time, and will be found printed in " Classification and Uses of Finger Prints," by Sir E. R. Henry (latest edition the fifth, published by H.M. Stationery Office), and in various police manuals.

The criminal records are very extensive; they were over 750,000 in 1923, and are being added to at the rate of about 20,000 new records of criminals annually. They include information furnished from British Dominions, the United States and the Continent of Europe. The interchange of criminal records is increasing, with advantage to all. Even finger prints can, apart from the latest developments of electric transmission of pictures, be telegraphically communicated by means of a code indicating their salient characteristics.

The finger print slips filed are well on the way to half a million in number. Specimen forms are included in the book referred to above, and also in a cheap memorandum on taking finger prints (also published by the Stationery Office). It will be seen from these that each form is a concise criminal record in itself, containing, as it does, the name and aliases of the criminal, separate rolled impressions of each of his ten fingers, with check impressions of the four fingers of each hand taken simultaneously, his signature, personal description (complexion, colour of hair and eyes and height), and particulars of convictions.

The finger print files, besides constituting a complete criminal record in a condensed form, are a very convenient index to the more voluminous criminal records.

For those who do not understand the finger print system its characteristics may be briefly summarised.

The great value for identification purposes of finger prints is that the fine ridges on the skin of the hands persist unchanged in shape from birth till death and are so infinitely diversified that a complete similarity between two full sets of finger prints is unthinkable. Nothing remotely approaching any such similarity has ever been observed, and the period of time in which the repetition might theoretically occur is a period of years which can be expressed only in numbers of astronomical dimensions.

But notwithstanding this almost infinite diversity, finger prints have been found to lend themselves to a simple system of classification, which enables any particular set to be found in the files within five or six minutes at the most, often within a fraction of a minute.

All impressions are divisible into four types: arches, loops, whorls and composites. These types are easily recognisable in the illustrations given in the text-books, even by unskilled persons. It is, indeed, easy to make illustrations for oneself. A little soot on the fingers and a sheet of white paper on which to impress them will give the reader a better idea than any amount of description.

About five per cent. of impressions are arches, sixty per cent. loops, and thirty-five per cent. whorls and composites; and usually specimens of more than one type occur in any individual in all varieties of order.

For purposes of primary classification, arches are included with loops, and composites with whorls, and the fingers being taken two at a time, i.e., Right thumb and right index, Right middle and right ring, Right little and left thumb, Left index and left middle, Left ring and left little, the total number of possible arrangements is 1,024. A cabinet with thirty-two rows of thirty-two pigeon-holes each will hold specimens of each combination in this primary classification.

It is not possible, without the aid of diagrams, to show how such a cabinet can be used, but with the aid of a very simple key, the pigeon-hole containing any particular combination can be determined in a few moments with accuracy. Indeed, it is possible to write any combination in the form of a vulgar fraction, thus $\frac{19}{20}$, this particular impression being in the twentieth pigeon-hole of the eleventh horizontal row.

These thousand and twenty-four groups, when totalling together hundreds of thousands of impressions, would be composed of accumulations which, in many cases, would be large and unmanageable, but there are, fortunately, means of secondary or sub-classification. Thus the axis of a lood impression may incline either to one side or the other; those where it slopes downwards from the thumb side towards the little finger are called ulnar, the others radial. The radial ones are fewer in number. Again, some of the arches

are taller and more pointed and are known as tented arches. Arches themselves are comparatively uncommon. The presence of these rarer forms is used to assist sub-classification. Again, in loops, whorls and composites, there are certain determinable fixed points known as the core and the delta, and it is possible to count the varying number of ridges between these two fixed points. By utilising all these diversities as means of sub-classification, it is possible to arrange the files so that the number of slips in any one group is quite small and easily looked through for comparison with the print sought to be matched. The trained man finds the particular one wanted with extraordinary rapidity, and even when the material upon which he has to work is partial and blurred will, with patience, discover what he seeks.

The finger print records serve two purposes, to obtain the previous history of persons in custody endeavouring to conceal their identity, and also to trace offenders through finger prints accidentally left at the scene of their crime. In one case an offender accidentally left a finger itself. When cases of this kind come into court, the police produce photographic enlargements of the finger prints—those found at the scene side by side with those preserved in the records. Red lines are drawn to points of resemblance and marked with letters of the alphabet. These points are points where ridges diverge from one another; odd little "island" ridges which frequently occur; and so on. So many of these distinct points of resemblance are forthcoming that their cumulative effect is conclusive evidence of identity to any candid mind.

(To be continued.)

A Conveyancer's Diary.

Sale of Equitable Interests Subject to Family Charges.

In last week's "Conveyancer's Diary" we dealt briefly with the principal matter directly in issue in the case of *Re Ryder and Steadman's Contract*, 71 Sol. J., p. 214. Several other matters of great interest were incidentally mentioned in that important case. In particular Mr. Justice Astbury observed that without any doubt the Acts had worked a very serious hardship on the vendors, who, having a good and simple marketable title immediately before the Acts, could thereafter only sell their land by complying with the statutory formalities.

This and observations of a similar character are, no doubt, derived from a study of s. 42 of the L.P.A., 1925—the "purchaser's charter" as it is coming to be known. It is, however, respectfully submitted, that such observations are based upon a misapprehension of the real effect of the various provisions of that section.

It may be as well, for the purposes of convenience, to set out the provisions of that section which are material to the point at issue.

Sub-section (4) enacts that:—

> If the subject-matter of any contract for the sale or exchange of land . . . .
>
> (ii) is an equitable interest capable of subsisting as a legal estate, and the vendor has power to vest such legal estate in himself or in the purchaser or to require the same to be so vested, the contract shall be deemed to extend to such legal estate.

It is to be noted that this clause of the sub-section only applies where following conditions are satisfied, namely:—

(*a*) the interest contracted to be sold or exchanged is capable of subsisting as a legal estate; and

(*b*) the vendor has power (A) to vest such legal estate in himself or in the purchaser or (B) to require such legal estate to be so vested.

The net effect of the sub-section is to give the purchaser the right, which he will in practice generally exercise, to call for a conveyance of such legal estate.

Let us try to apply these principles to practical examples.

Case I. A holds an equitable estate in fee simple, the legal estate being for some reason or other, outstanding in B. A contracts to sell his equitable interest only. By virtue of the above sub-section the purchaser is entitled to a conveyance of the legal estate from B.

Case II. C holds an estate in fee simple subject to a family charge. He contracts to sell his interest subject to the charge. He has the right to require the legal estate to be vested in him, if not already vested in him by Pt. II of the 1st Sched. to the L.P.A., 1925, or otherwise. Under the L.P. (Amend.) A., 1926, s. 1 (1), however, he can convey a legal estate subject to the charge. The contract in such case would, it seems, extend to such legal estate subject to the charge.

Case III. Before 1926 land was held by D and E (husband and wife) as joint tenants in fee simple, subject to a family charge. D and E have entered into a contract for the sale of the land, subject to the charge. By the effect of S.L.A., 1925, s. 1 (1) (v), the land has become settled land, the legal estate therein being vested in D and E as joint tenants under L.P.A., 1925, para. 6 (*c*). But, by L.P. (Amend.) A., 1926, s. 1 (1), D and E are enabled to transfer a legal estate subject to the charge. In this case again, therefore, it seems the contract extends to such legal estate subject to the charge.

Case IV. Before 1926 land was held by X., Y. and Z, as tenants in common, subject to a jointure. After 1926 they contract to sell the land subject to the charge, disclosing the fact that they are tenants in common.

Under the vesting provisions of the L.P.A., 1925 (1st Sched., Pt. IV), the legal estate has become vested in the S.L.A. trustees of the settlement created by the instrument creating the family charge, as trustees for sale, free from the jointure: *Re Ryder and Steadman*, *supra*. X, Y and Z, therefore, no longer have the legal estate; nor have they the power to vest the legal estate in themselves or in purchasers from them, or to require the same to be so vested. It seems, therefore, that the contract for the sale of the land subject to the charge must be construed to relate only to the equitable interest vested in X, Y and Z, and not to any legal estate; and that the purchaser is not entitled to a conveyance from the S.L.A. trustees.

There is no difficulty in the way of X, Y and Z making a conveyance of their interest to the purchaser, and there is no hardship on the vendor in being obliged to obtain the concurrence of any person whom he cannot force to concur.

Further, there is no hardship upon the purchaser in his being obliged to take such a conveyance of an equitable interest. Possession of the legal estate is not a *sine quâ non* of the full enjoyment of proprietary interests in land. Equitable interests may now be enjoyed with greater security by reason of the added protection afforded by the new legislation.

The purchaser in this case should for his own protection give notice both of his contract and of his conveyance to the S.L.A. trustees, pursuant to L.P.A., 1925, s. 137 (2) (1). His title will be as good a marketable title as he ever would have enjoyed in similar circumstances under the old law.

Landlord and Tenant Notebook.

Construction of Restrictive Covenant.

A judgment of extreme importance as to the construction of a restrictive covenant in a lease, prohibiting the carrying on, on the demised premises, of, *inter alia*, the trades of alehouse keeper, beerhouse keeper, tavern keeper, or licensed victualler, was recently delivered by Mr. Justice Salter in *Lorden* v. *Brooke Hitching and Others*, 43 T.L.R. 268.

In this case, the premises had been let as a restaurant. The material covenant in the lease provided that the premises were not to be used as a place of public entertainment, and prohibited the carrying on thereon of, *inter alia*, the trade of " alehouse keeper, beerhouse keeper, tavern keeper or licensed victualler . . . or any other art, trade, business or employment whatsoever which shall be dangerous or a nuisance or annoyance to the tenant or occupier of any messuage, suite, flat or any other hereditament in the neighbourhood of the premises hereby demised."

In order to obviate the inconvenience of having to send out for liquors when they were desired by customers, an application was made by the lessee of the restaurant for a licence to sell liquor. The justices granted a licence, subject to certain conditions, viz., that no bar was to be erected on the premises, that wine or beer was to be sold only with *bona fide* meals, and that no wine or beer was to be sold off the premises. In pursuance of this licence an excise licence was obtained.

The licence in question was thus an ordinary restaurant licence enabling the restaurant to supply customers having a meal at the restaurant with wine or beer, but not with spirits. The question that Mr. Justice Salter was called upon to decide was whether there had been any breach of the covenant in the circumstances.

In construing the covenant the learned judge laid down, in the first place, the general proposition, viz., that *the prohibition of the carrying on of each trade or group of trades had to be read in the light of the general words which followed*. The object of the covenant, in the learned judge's opinion, was " plainly to maintain the amenity of the neighbourhood and to prevent any annoyance to adjoining occupiers, whether by noise, smell, dirt, dust, smoke, crowds or disorder "; and further the words " alehouse," " beerhouse " and " tavern " all implied " a place where people could go and buy intoxicating drink, without necessarily buying anything else."

Importance of General Words.

In the construction of particular words it would be useful to bear in mind the canon of construction laid down in *London and Suburban Land and Building Company* v. *Field*, 1881, 16 Ch. D. 645. There the prohibition was not to use the premises as a " public-house, tavern, or beershop," and it was held that a breach of covenant had been committed by the lessee's obtaining an off-licence, authorising the sale of beer, not to be consumed on the premises, and by such sale in virtue of the licence. The observations of Brett, L.J., should be carefully noted. Thus the learned lord justice says (*ib.*, at p. 647): " There are many words used in business which have acquired in business some other than their ordinary meaning, and where such words are employed in a *trade agreement* they must be construed according to their ordinary meaning, unless there is something in the context of the instrument to show that they are not used in that sense. Here two words are used which have a technical meaning, namely, ' public-house ' and ' tavern,' and if the third word had been ' beerhouse ' there again would have been a word which has acquired a technical meaning. But the word ' beershop ' has not acquired any such technical meaning, and I have no doubt that it means a shop where beer is sold. It includes a beerhouse, but it also includes a place where beer is sold, but which is not a beerhouse."

General Rule of Construction.

With this case might be compared *Holt & Co.* v. *Collyer*, 16 Ch. D. 718. There the covenant was not to use a house " as a public-house, tavern, or beerhouse," and it was held that there had been no infringement of the covenant by the opening of a grocer's shop on the premises on which were also carried on the ancillary business of the sale of beer to be consumed off the premises. It is important to note that in this case Fry, J., refused to admit evidence to show that the word " beerhouse " was understood in the trade in a technical sense, on the ground that there was nothing to show that the expression had not been used in its primary and popular sense. The learned judge pointed out that the lease was not a trade instrument, but was an ordinary lease by a landlord who was not shown to be a brewer or to be connected with the brewing trade, to a person who also was not at the time in question connected at all with the business of selling beer.

(*To be continued*).

Reviews.

The Law and Practice relating to Letters Patent for Inventions. By THOMAS TERRELL, K.C. Seventh Edition. Revised and rewritten by COURTNEY TERRELL (of Gray's Inn) and D. H. CORSELLIS (of the Inner Temple). Medium 8vo, pp. xl and 637. 1927. Sweet & Maxwell, L'd. £3 3s. net.

"Terrell on Patents" is well established as a standard legal text-book, and it is now in its seventh edition, and the authors are to be congratulated on having produced a well-arranged and thoroughly useful treatise. The index and table of cases are excellent. An added value is given to the work by the marginal references to the text inserted in the Appendix, in which the Acts, the Patents Rules and Order LIIIA are printed in full.

The principles of patent law are neither unduly numerous nor abstruse, the real difficulty lies in their application in particular cases. Under the present system of reporting in great detail every patent action, the law is overburdened with reported decisions. A fresh digest of the Patent Office Reports is long overdue, and the delay in publishing one makes the present volume doubly welcome. The authors have selected their cases with care and have given long (in some instances perhaps somewhat too long) extracts from the judgments to illustrate the application of general principles. The statements of principle are well made as a rule; but in some parts of the book they are rather too much intermingled with the illustrations of them, with the result that they do not emerge as clearly as they might. The chapter on subject matter is a case in point. A critical examination of the judgment in the House of Lords in the "*Half Watt Case*," (*B. T. H. Co. Ltd.* v. *Corona Lamp Works Ltd.*) would have been welcome.

The chapters headed, The Applicant and Application, Opposition to the Grant, and Action for Infringement, are excellent. They are well arranged, particularly the last mentioned, and they are concisely written. Practitioners should find them most useful in every way.

More attention might, with advantage, have been devoted to s. 32A of the Acts, under which relief in an infringement action may be granted in respect of valid claims, without regard to the invalidity of any other claim in the patent. The section created a revolutionary change in patent law. It has come up for discussion in several reported cases which are referred to, and some of the difficulties arising out of it have become apparent; but, the courts, in the absence of any necessity to do so, have refrained from giving any considered interpretation of its effects. The section may supply an answer to the question whether there can be said to be an infringement of an invalid patent, which the authors raise,

but do not discuss, on p. 326, when dealing with the action for threats.

It may be doubted whether in any event the validity of a patent or of a claim is material in a threats action under s. 36 of the Act in its present form, and it would have been helpful if this point had been more fully dealt with. Another subject on which s. 32A may have some bearing, and which might usefully be amplified, is prior grant. An apparently unrepealed statute of Henry VIII is printed in the Appendix. This is of little more than historical interest, and it throws little light on the difficult question as to what may amount to a prior grant so as to invalidate a subsequent patent.

The authors have refrained from commenting on s. 21 of the Act of 1919, and its general effect on the construction of the Acts in their consolidated form. In referring to the Acts, the authors have not adopted the form of citation set out in s. 22 of the Act of 1919. In some cases they refer to "the Act of 1907," and in others to "the Act of 1907 as amended by the Act of 1919." Although this form of citation avoids confusion, it is doubtful whether it is strictly accurate having regard to the provisions of s. 21 of the Act of 1919.

The book as a whole contains a mass of information, which is ably co-ordinated and readily accessible to the reader, and the above comparatively small omissions do not detract from its high merits.

A Compendium of the Law of Torts; Specially adapted for the use of Students. By The Hon. Sir HUGH FRASER, one of His Majesty's Judges. Eleventh Edition. By ROLAND BURROWS, M.A., LL.D. London: Sweet & Maxwell, Ltd., 2 & 3, Chancery Lane, 1927, xxxvi and 300 pp. 12s. 6d. net.

The first edition of "Fraser" appeared in 1888, and since then it has passed through eleven editions. No better evidence could be adduced of its merits and well-deserved popularity. The elevation to the Bench of the author has necessitated a change of editorship, and complete responsibility for this edition has been undertaken by Mr. Roland Burrows, who has already assisted in the preparation of previous editions. So far as we have tested, the task of bringing the book up to date has been well done, the revision having been carefully performed and the new matter only involving the addition of about twelve pages. One could, perhaps, have wished for a little fuller treatment of the "Nervous Shock" cases, and of the effect of the much criticised *Polemis Case*; yet all that a student should know is included, while the refinements which would be apt to bewilder him are omitted. The book is a condensed and clear exposition of the law, and no candidate for the Bar or Solicitors' Final need be told that it should be read, and re-read before the examination.

Books Received.

Journal of Comparative Legislation and International Law. Edited for the Society of Comparative Legislation by F. P. WALTON, K.C. (Quebec.) LL.D. Third Series. Vol. IX, Part I. Demy 8vo, pp. iv and 152. 1927. The Society of Comparative Legislation, 1, Elm Court, Temple, E.C.4. 6s. net.

Manual on the Law and Practice of Powers of Attorney. Issued by the Council of the Chartered Institute of Secretaries. Demy 8vo., pp. vi and 85. 1927. W. Heffer & Sons, Ltd., Cambridge. 3s. 6d. net.

The Annual County Court Practice, 1927. 46th Edition. His Honour Judge RUEGG, K.C., Judge of County Courts of North Staffordshire, assisted by H. P. STANES, Registrar of the Hanley and Stoke-upon-Trent County Court. Costs and Fees, by ARTHUR L. LOWE, LL.B., and F. G. GLANFIELD, LL.B., Joint Registrars of the Birmingham County Court. Admiralty and Merchant Shipping by H. H. SANDERSON, Solicitor. Workmen's Compensation by F. G. RUEGG, M.A., Barrister-at-Law. Large Crown 8vo., pp. cxxix and 2543, with Index, 221 pp. Sweet & Maxwell, Ltd., and Stevens & Sons, Ltd., Chancery Lane. 40s. net.

Statement showing the Number of Persons in Receipt of Poor Law Relief in England and Wales in the Quarter ending in December, 1926. With some Particulars as to the number of "Unemployed" Persons in receipt of such Relief. 1927. H.M. Stationery Office. 4d. net.

Rating and Valuation Act, 1925, *Section* 62. *The Overseers Order*, 1927. (*S.R. & O.* 55/27). H.M. Stationery Office. 3d. net.

Central Law Journal. "The Lawyers' National Weekly." Vol. 100. No. 7. Feb. 18th, 1927. The Central Law Journal Company, St. Louis, Mo. 25c. per number.

The Devolution of Settled Land. With Concise Precedents. A. H. COSWAY, Author of "The Conveyancers' Notebook." Crown 8vo., pp. vii and 116 (with Index). 1927. Effingham Wilson, 16, Copthall Avenue, E.C.2. 4s. net.

Konstam and Hildesley's Rates and Taxes. Being the third Edition of Konstam's Rates and Taxes, Revised and in part re-written by ALFRED HILDESLEY, of The Inner Temple, Barrister-at-Law, with an Introduction by E. M. KONSTAM, K.C. Demy 8vo., pp. c, 15 and (Index) 35. 1927. Butterworth & Co., Bell yard, Temple Bar, 12s. 6d. net.

Notable British Trials: Trial of Herbert Rouse Armstrong. FILSON YOUNG. Demy 8vo., pp. x and 396, with Appendices. William Hodge & Co., Ltd., Edinburgh and London, 10s. net.

The Publications of The Selden Society. Vol. XLIII for the year 1926. The Year Books of Edward II. Vol. XIV (Part II), 6 Edward II, A.D. 1313. Edited for the Selden Society by W. CRADDOCK BOLLAND, M.A., LL.D. (Barrister-at-Law). Crown 4to., pp. xlix and 222, with Index. Quaritch, 11, Grafton Street, W.

Economica. March, 1927. No. 19. The London School of Economics and Political Science, Houghton Street, Aldwych, London. 2s. 6d. net.

Isalpa. Being the Monthly Journal of the Incorporated Society of Auctioneers and Landed Property Agents. Vol. I, No. 3. March 1927. Subscription 3s. 6d. per ann.

The Law of the Press. THOMAS DANSON, Barrister-at-Law. 1927. pp. xxi and 240 (with Index). P. S. King & Son, Ltd., Orchard House, 14, Great Smith Street, Westminster, S.W. 10s. 6d.

The Central Law Journal. Vol. 100, No. 5 and 6, 11th and 18th February, 1927. Central Law Journal Company, St. Louis, Mo. 25c. per number.

The Medical World. The Official Organ of The Medical Practitioners Union. Vol. XXV, Nos. 25 and 26, 25th February and 4th March, 1927. 1s. per copy.

The Medical Times. Vol. LV, No. 2195. February, 1927. 8 & 9 St. Albans Place, Islington. 6d. per copy.

Burglary Risks in Relation to Society, Law and Insurance. E. H. GROUT, B.Sc., A.C.I.I. 1927. Large Crown 8vo., pp. xv and 311 (with Index). Sir Isaac Pitman & Sons, Ltd., Parker Street, Kingsway, W.C.2, Bath, Melbourne, Toronto and New York. 10s. 6d. net.

International Private Law or the Conflict of Laws. WM. NEMBHARD HIBBERT, LL.D. (Lond.) 1927. New and Revised Edition entirely re-set. Demy 8vo., pp. xxvii and 237 (with Index). University of London Press, Ltd., 10 and 11, Warwick Lane, E.C.4. 10s. 6d. net.

The Electricity (Supply) Act, 1926, *with Notes and Index.* T. J. SOPHIAN. Medium 8vo. pp. vi and 62. Sweet & Maxwell, Ltd., and Stevens & Sons, Ltd. Paper. 4s. 6d. net.

LAW OF PROPERTY ACTS.

POINTS IN PRACTICE.

Questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only and be in triplicate. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post.

UNDIVIDED SHARES—TITLE—SALE BY WAY OF LONG LEASE.

704. *Q.* A died on the 10th March, 1904, appointing his sons B and C his executors. He devised and bequeathed all his real and personal estate unto and to the use of his said sons B and C their heirs, executors and administrators respectively, upon trust to sell, call in and convert into money such parts of the said trust premises as should not consist of ready money and pay the income of the trust moneys and the investments for the time being representing the same to his wife during her life and after her decease to hold the said trust premises in trust for all his children or any his child who being sons or a son should attain that age or marry under that age, and if more than one in equal shares. The deceased left a widow who died some years ago and three sons, B, C, D, and a daughter E. At the time of his death the testator was seised of a freehold plot of land subject to a mortgage which is still subsisting. In 1922 C died intestate leaving a widow and children surviving and letters of administration to his estate were granted to F, his eldest son (the widow having renounced). In 1923 B, D, E and F together with the mortgagee, granted two leases of parts of the freehold property for terms of 999 years, and subject to certain chief rents. The same parties are now desirous of selling a further portion of the property by way of lease for 999 years at a rent and the question has been raised as to whether this can be done under the new Conveyancing Acts. It is conceived that the legal estate at the moment is vested in the Public Trustee, and that the beneficial owners of more than one half should appoint trustees for sale. The further question arises whether trustees for sale have power to create rents?

A. B and C held the property upon trust for sale until C died, leaving B sole trustee for sale. That being so, the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (1), rather than para. 1 (4), appears to have applied on 1st January, 1926, and B holds on trust for sale, though he will have to appoint a co-trustee to receive purchase money if he wishes to sell. Before last year, there was some doubt whether trustees for sale could sell for a perpetual rent-charge (see *Re Ware*, 1892, 1 Ch. 344, pp. 346-347), and, *a fortiori*, this doubt would be intensified if the rent-charge was not perpetual. Now, however, s. 28 (1) of the L.P.A., 1925, gives trustees for sale the wide powers of a tenant for life under the S.L.A., 1925. These expressly include power to sell in consideration of a perpetual rent-charge, or a terminable rent consisting of principal or interest (see s. 39 (2)). The trustees may also grant a building lease for 999 years (see s. 41 (i)). It is suggested therefore that the desired transaction can be carried out under one or other of these powers.

UNDIVIDED SHARES—SALE OF ONE SHARE.

705. *Q.* Prior to 1926 three cottages were owned by A, B and C respectively, and A, B and C also together held adjoining land in undivided third shares. In August, 1926, A dies intestate a widower leaving several children, and his two eldest sons, M and N, take out letters of administration of his estate, which includes one of the three cottages and the above-mentioned undivided third share of land. M and N have now agreed with the other children of A to purchase the cottage and the undivided third share of land all previously belonging to their late father. No difficulty arises in conveying the cottage, but having regard to the provisions of the L.P.A. relating to tenancies in common, how can the undivided third share in the land be dealt with?

A. On 1st January, 1926, the land held in undivided shares became vested in A, B and C upon the statutory trusts. On A's death B and C became the surviving trustees, and the legal estate in the land is vested in them. The best plan for M and N is to purchase the beneficial interests in the land and have them conveyed to themselves, and for B and C to appoint M and N to be additional trustees to hold upon the statutory trusts for B, C, M and N according to their respective shares. The deed of appointment of additional trustees will operate to vest the legal estate in the land in all four trustees.

PRE-1926 INTESTACY—INFANT HEIR ON 1ST JANUARY, 1926—HEIR NOW OF AGE—DOWER—TITLE.

706. *Q.* A died intestate in November, 1918, possessed of a freehold farm in Kent and leaving a widow, a son (an infant) and four daughters. Letters of administration were granted to the widow in 1919. The son attained twenty-one in November, 1926. No formal conveyance or assent has been made by the administratrix. The widow's dower has not been assigned by metes and bounds. It is now desired by the widow and son to raise a loan on security of the farm. What is the best method of carrying out the proposed mortgage? It is not desired to apply to the court for the appointment of trustees if this can be avoided.

A. Although no formal assent was made before 1926, L.P.A., 1925, 1st Sched., Pt. III, applied to bring S.L.A., 1925, 2nd Sched., para. 3 (1), into operation, with the result that the land vested on 1st January, 1926, in the trustees of the settlement upon such trusts as were requisite for giving effect to the rights of the infant and other persons interested. Reading this provision with *ib.* s. 26, we find that the trustees of the settlement are to have the powers of a tenant for life in respect to the land.

The widow is the trustee of the settlement (S.L.A., 1925, s. 30 (3)) and the legal estate is vested in her. The son may put an end to the settlement (the view here adopted is that the subsistence of a claim for dower unassigned does not make the land settled land or land held upon trust for sale: see "A Conveyancer's Diary," vol. 70, p. 723), and for this purpose the widow can convey the estate to him free from the settlement arising in virtue of the heir's infancy, but subject to her dower. The heir can then with the concurrence of the doweress execute the mortgage. As there is no capital money arising for which to give receipt there is no need for the appointment of an additional trustee.

RESTRICTIVE COVENANTS—REGISTRATION—L.C.A., 1925, s. 13 (2).

707. *Q.* I am acting for a vendor who is selling land in plots under a housing scheme, and each conveyance contains restrictive covenants by the purchaser and reserves a right of pre-emption in favour of the vendor. In every case the purchaser borrows the purchase money from a building society and executes a mortgage to the building society, dated the same day as the conveyance. The registration form (L.C.4) is posted to the Land Registry by me on the same day as the date of the conveyance and is received at the Land Registry the next day, and registered on that date.

(1) In the event of the mortgagee selling under his power of sale, can he sell free from the covenants and right of

pre-emption? In other words, is he "a purchaser of the land" within the meaning of s. 13 (2) of the L.C.A., 1925?

(2) If so, is my client's only means of protection the filing of a priority notice under s. 4 of the L.P. (Am.) A., 1926?

A. (1) Yes, see L.C.A., s. 20 (8).

(2) In the circumstances, yes.

INTESTACY—CHILDREN BENEFICIARIES—SURRENDER OF REALTY TO SONS BY DAUGHTERS—PROCEDURE.

708. *Q.* A dies in 1927 a widow, leaving two sons and three daughters, all of age. The deceased's property consists of two freehold cottages and a little personal estate. The daughters do not desire to take any share in either the real or personal property. It is proposed that the eldest son administers. It is not desired to sell the real property. How should the transfer of it to the sons beneficially be effected. If the eldest son administers should he convey to himself and his brother with the concurrence of the sisters? Would the eldest son's fiduciary position as administrator vitiate this?

A. It is assumed that the widow died intestate. Her elder son, as administrator, will hold the realty upon trust for sale under the A.E.A., 1925, s. 33 (1) (*a*). The suggested procedure will be in accordance with s. 23 of the L.P.A., 1925, and will be in order when the debts and death duties and testamentary expenses have been paid and satisfied.

S.L.A. TRUSTEES—CONTINGENT FUTURE TRUST FOR SALE—S.L.A., 1925, s. 30 (1) (iv).

709. *Q.* A testator who died in 1911 by his will devised certain specific properties to his trustees (one of whom died in his lifetime) upon trust to pay the net annual income arising therefrom to W D during his life, and after his death to hold the properties in trust for such of the children of W D as should attain twenty-one in such shares or proportions as W D should by deed or will appoint, and in default of appointment among such children equally if more than one. In the event of there being no children of W D who should attain a vested interest then the properties were to fall into and become subject to the trusts of testator's residuary estate. The residuary estate was devised to the trustees upon trust for sale but there is no specific appointment of the trustees for the purposes of the S.L. Acts. The surviving trustee and executor proved the will and by a deed dated in January, 1913,, appointed an additional trustee of the specific properties to be held upon the trusts declared by the will. It is now proposed that a vesting deed shall be executed in favour of W D, but we are doubtful whether under the present circumstances the two present trustees are under S.L.A., 1925, s. 30 (1) (iv) trustees for the purposes of that Act. W D has four children now living, the eldest of whom will attain twenty-one in March next, so that it is not therefore probable that the specific properties will ever fall into residue and become subject to the trusts for sale. Under these circumstances can reliance be placed upon s. 30 (1) (iv) of the S.L.A., 1925, or is it not necessary for the surviving executor under s. 30 (3) to appoint an additional trustee to act with him for the purposes of the S.L.A.?

A. It may be argued that the words "whether the power or trust takes effect in all events or not" (see S.L.A., 1925, s. 30 (1) (iv)) are general enough to include a contingent trust for sale such as the one in this case, though it may be that what the draftsman had in mind when inserting those words was a case such as *Re Davies and Kent*, 1910, 2 Ch. 35, where the trust for sale was not invalid at the time, but was capable of being made so. The definition of a trust for sale as an immediate binding trust for sale (S.L.A., s. 117 (1) (xxx)) cannot in the nature of things apply to *ib.*, s. 30 (1) (iv), for there is in the paragraph a clear contrary intention. Buckley, J., in *Re Jackson's S.E.*, 1902, 1 Ch. 258, 261-262, throws a little light upon the matter in the following remarks upon S.L.A., 1890, s. 16 (2) (now re-enacted in S.L.A., 1925, s. 30 (1) (iv)): "Then what is meant by 'under a future trust for sale'? The preposition 'under' is a little difficult to construe, but I think it must be read as meaning 'subject to' or 'bound by,' a future trust for sale, or trustees of a settlement 'which contains' a future trust for sale." The opinion here given is that in order to make certain that there shall be properly constituted S.L.A. trustees the surviving executor's course is to appoint the same person an additional trustee to act with him.

University College.

RHODES LECTURES:

"The Judicial Committee of the Privy Council and Unity of Law in the Empire."

BY PROFESSOR J. H. MORGAN, K.C.

LECTURE No. 1.

Lord DUNEDIN (the Chairman): Your Excellencies, my Lords, Ladies and Gentlemen, a stop-gap is always inclined, I hope, to be modest. The most comforting thing I can say to you is that I think that the Lord Chancellor's illness is not in the slightest degree serious; and, indeed, I think he would have been quite well already if he had not sacrificed himself to the subject of the lecture to-night, namely, the Judicial Committee of the Privy Council. Through his feeling of duty that he should be present at the delivery of the epoch-making judgment on the Labrador boundary, I think he went out a little sooner than he otherwise might have done.

Now this is a Rhodes Lecture, and I believe it has always been the custom just to say one or two words in memory of that great Empire builder, Cecil Rhodes. His idea of Empire was not an Empire of conquest and he wished that there should be throughout the Empire a feeling of friendship not only between the members of the Empire, but between other countries. You know that he founded that great scheme of the Rhodes Scholarships, by which the intellectualism of youth might make acquaintance between the different countries; and no doubt that sort of acquaintance is just the kind of thing that prevents misunderstanding. Besides that, his trustees have done other services to education, and in particular we are here to-night owing in a great part to their generosity, because it was their giving a certain sum of money which enabled these Rhodes Lectures to be founded.

Now I think there could not be a subject more appropriate to the ideas which Cecil Rhodes had than the subject that you have to-night, the Judicial Committee of the Privy Council, because undoubtedly the Judicial Committee of the Privy Council—and no doubt you will hear more about it from Professor Morgan—is one of the actual living links of Empire at this moment.

I think the ordinary man in the street has a good deal of misapprehension as to the Judicial Committee of the Privy Council. He confuses it with the Privy Council. The Privy Council at this moment has 345 members, whereas the Judicial Committee consists of only fifty-four, and of those fifty-four practically the whole work is done by about eighteen; they are the people who are summoned and who do the work.

There is something else, I think, to be said about the Judicial Committee. Professor Morgan, I have no doubt, is a keen critic. I daresay he will tell us something that is good of the Judicial Committee, but he has a perfect right to be, and I have no doubt that he will be, critical also, and his shafts of criticism will fall upon us. Well, I am a member of that Committee, and perhaps you think it rather curious that our friends in office here should put me in the chair. Personally I do not think they will have any better defence than the good lady who, when they took her to task because she had taken her little boy to see a pig killed, said: "Well, he do so love to hear 'em squeal." I do not think I shall squeal, for this

reason: I have been a member of that Committee for twenty-two years, and in the course of twenty-two years the skin gets very hard and tough, therefore I am not afraid of what the Professor will tell you. There is also another reason: I rather think that he has a sneaking liking for the Judicial Committee, and therefore I do not feel it necessary to make a zareba round my den and prophylactically tell you what splendid fellows we are.

Without detaining you further, I will call on Professor Morgan to deliver his lecture.

Professor J. H. MORGAN: Lord Dunedin, Mr. Provost, your Excellencies, my Lords, Ladies and Gentlemen, not so very long ago a great lawyer, one of the greatest lawyers of the English-speaking world, and one well and dearly known to some of us here—when addressing the American Bar said this—"One may live greatly in the law as elsewhere. Every calling is indeed great when greatly it is pursued. But what other gives such scope to realise the spontaneous energy of one's soul? In what other does one plunge so deeply in the stream of life? What a subject is this in which we are united! This abstraction called the law, wherein, as in a magic mirror, we see reflected, not only our own lives but the lives of all men that have been and were! If we are to speak of the law as our mistress we know that for him who woos her with sustained and lonely passion every text that he deciphers, every doubt that he resolves, adds a new feature to the unfolding panorama of man's destiny upon this earth. Nor will his task be done until, by the farthest stretch of human imagination he has seen, as with his eyes, the birth and growth of society, and by the farthest stretch of reason he has understood the philosophy of its being. When I think thus of the law I see a princess mightier than she who once wrought at Bayeux, eternally weaving into her web dim figures of the ever-lengthening past, figures too dim to be noticed by the idle but disclosing to her pupils every painful step and every world-shaking contest by which mankind has worked and fought its way from savage isolation to organic social life."

Those noble words of Mr. Justice Oliver Wendell Holmes have often come home to me of late with a new and inspiring application, when reading over the reports for the last twenty years of the Judicial Committee of the Privy Council. Where else, indeed, does one plunge so deeply in the stream of life? Where else does one encounter, in so rich a diversity, the unfolding panorama of man's destiny upon this earth? Turn over those hieratic pages and you will find their lordships one day discussing, in a marriage case from Quebec, the decrees of the Council of Trent and a Lateran Council of the thirteenth century, and you are back in the canon law of the Middle Ages. Another day and they are exploring the text of a Brahminical jurisconsult forbidding, many centuries before the birth of Christ, any man to give or take an only son in adoption—and you are carried far back to the twilight of ancestor-worship. Yet a few pages and you are carried forward by the sweep of centuries to the Indian Evidence Act and the effect of the doctrine of estoppel on a kinsman who has first accepted and then repudiated the introduction of an infant stranger into that joint family which is as old as time. Another day and their lordships are deciding whether that strange and inscrutable juristic person, a Hindu idol, who has fallen among quarrelsome guardians, shall, in his forlorn condition, have appointed unto him a "next friend." Again their lordships are called upon to decide whether a declaration and injunction shall be made and issued against Bella Jones, convert to the Zoroastrian religion, for attempting to trespass among Parsees of pure Persian stock within the sacred precincts of the Temple of Fire at Rangoon. Or turn to the Western Hemisphere and you will find a debate as to the usufructuary rights of aboriginal tribes over Nigerian lands which know nothing more modern than that communal ownership which is older than the origin of private property in land. Yet a few years and their lordships are investigating, in a case from Rhodesia, whether Lobengula, in making a vast concession of native lands to a European adventurer, was acting as a "trustee" for his tribe—in other words, whether he was, as Maitland said of Maine's refined patriarch of early Roman law, "a savage in evening dress." Turn to the appeals from the Straits Settlements and you will discover that British subject though you be, you cannot, if you are of Chinese descent, with impunity allow a lady to visit your house and offer your wife a cup of tea in your absence, or, you may find that you have acquired a "secondary wife," with disturbing effects, if not on your peace of mind, at least on your intestacy. In one sphere of the Privy Council's appellate jurisdiction you may, if you are a Mohammedan, be the husband of many wives; in another, if, in addition to the privilege of being a woman, you are a Nair, you may become the wife of many husbands—if indeed you are a wife at all, for in Malabar ancient usage is dying hard, and there, as in another place, there is neither marrying nor giving in marriage. And as with marriage, so with divorce. If you are a members of a domiciled Jewish community in Egypt and have obtained a divorce in a Court of Rabbis, the Privy Council will—or until lately would—grant you a declaration that the divorce was binding, and in doing so will discourse of the Levitical Law and of Moses. For the British Empire knows much of personal law as much as in those days of the later Roman Empire when men of each race "lived their own law." Go to Ceylon and you will find—the Privy Council reports will tell you as much—that it is dangerous to make a promise in a generous mood and still more dangerous to break it, because in Roman-Dutch law they have quite different notions of what constitutes "consideration" from our own. Settle in Quebec and you will find that you act at your peril to a degree unknown to English law, for you are there governed by a French law in which the mere occurrence of an accident may impute to you a want of reasonable care and the onus is on you to refute it.

I might multiply instances, but I have said enough—perhaps more than enough—to show that this great tribunal is, to borrow the words of Coke about a collateral branch of it now extinct, "the most honourable court that is in the Christian world." Nay, in the habitable world, for it gives law alike to Christian and to Pagan, to Jew and Gentile, to Hindu and Mohammedan. The secret of its manifold jurisdiction is, of course, to be found in the strict and honourable observance of the rule laid down by Mansfield, that in our conquests and acquisition of territory the laws remain until altered by the conqueror. Rarely have we altered them; we have been content to administer them, through the Privy Council, according to principles of justice, equity and good conscience. Some things, indeed, however deeply rooted in the systems of law we take under our protection we will neither enforce nor permit—slavery, prostitution, torture, suttee, human sacrifice, the imposition of civil disabilities on religious belief, and deprivation of liberty without due process of law—for all these things are contrary to "public policy," nay, are altogether too foreign to British ideas to permit of legal naturalisation within the British Empire. Rules of evidence and procedure we may change, criminal law we may reform, legislate—and in India we have legislated largely—we sometimes do, but in that kind of law which concerns a man and his neighbours, his family, his faith, his land, his chattels—inheritance. marriage, status, religion, contract, tort—we have innovated but little or not at all. Of the administration of so many systems of law, exotic to our own, I think it can be truly said that the Privy Council has been conspicuously *loyal*—I use the word advisedly—to the maintenance of their integrity. You will never find in the Privy Council reports any attempt to anglicise other systems of law than our own. Their lordships respect native law ever as our Government respects native faiths; they never proselytise. Our common law of real property, with its peculiar conception of the division of the

fee into incorporeal rights, has neither made nor attempted any conquests abroad, and an estate tail is as unknown in India as it is in West Africa. As for equity—well, of it we may truly say what Maitland said in quite another connexion, that whenever it has appeared in the Privy Council's interpretation of another system of law than our own it has been introduced not to destroy that law, but to fulfil it. A gift or devise to "Dharam," i.e., to virtue, to piety, to duty, or to some equally vague and ambiguous purpose, will be held void for uncertainty in India on the principles of English equity, but why? Simply because the root of the English maxim is that the execution of a trust shall be under the control of the court, and if you admit the validity of such a gift under Indian law, the Indian courts themselves will be unable to control it. Still less will you find their lordships taking the high *à priori* road of comparative jurisprudence, of which Lord Darling in a merry moment has lately said that it is a little of everything and nothing of something. Lord Phillimore summed up the practice of the Privy Council when, in a recent case from Ceylon, he dwelt on the dangers of applying to their decisions anything in the nature of comparative jurisprudence, and refused to be enticed by the application of analogies drawn from one system of law to the interpretation of another. Lord Shaw a little earlier made the same point in a case from the Straits Settlements, when he said that the law of evidence in any colony must be found in the Evidence Act of that colony, and that whatever its terms, however novel its statutory illustrations, they should in no case be rejected because they do not square with ideas derived from another system of jurisprudence.

So far I have been speaking of those British possessions which know not the English law, whether common law or statute. But here, too, the Privy Council is equally jealous of what may be called the autonomy of the local law, or rather, I should say, of local legislation. That law, in the case of colonies acquired by settlement—in particular in five out of six of the great Dominions, and always excepting the province of Quebec, is English law, but it may be, and often has been modified by local statutes, and you have also always to consider in any case the date of its "reception," and what statutes the reception carried with it. At first sight, you might well think that in appeals from these five Dominions their lordships are applying the English common law pure and undefiled. So they are, to a large extent. Their reports are a storehouse of the principles of our common law, and though, as an appellate court from overseas possessions, their judgments are not binding on our own courts, the latter treat them with respect, even as Dominion Courts treat, with equal respect, the decisions of the English Court of Appeal, particularly where it is a question of the interpretation of an English Statute re-enacted, as is so often the case, by a colonial legislature in the same terms as the original. Sometimes the English Courts follow a Privy Council decision, as very recently in the case of *Nunan* v. *The Southern Railway Company* where our Court of Appeal faithfully applied a judgment of Lord Dunedin to the determination of the vexed question whether Lord Campbell's Act created a new cause of action and if so, what was the point of fictitious time *in articulo mortis* at which that cause of action arises. Sometimes, on the other hand, the Court of Appeal has declined to follow a Privy Council decision, as in the almost equally recent case of *Janvier* v. *Sweeney*, in which the question was raised whether a defendant, in an action for negligence, is responsible for the mental state, i.e., the nervous shock, induced in the plaintiff by his want of due care. But such divergences of law are rare, and they do not affect my main proposition, which I hope to develop in a later lecture, namely that the Privy Council reports are a treasury of our common law. Particularly is this true of Criminal law, rare though it is to find petitions for special leave to appeal entertained. Remember, that until comparatively lately, we had no Court of Criminal Appeal in this country, and even now it is only on the certificate of the Attorney-General—rarely granted—that that Court's judgments are reviewed by the House of Lords. If, therefore, I wanted to hear the last word on the delicate question of the admissibility of a prisoner's statements inculpating himself, I should still go to the Privy Council reports, there to read the masterly judgment of Lord Sumner in *Ibraham* v. *The King*. Seeking recently, as a constitutional lawyer, for new light on our law of *certiorari*, I found all I could want in a Canadian appeal—in *The King* v. *The National Bell Liquor Company*. So with equity—if you want more light on what is an express trustee and what is a constructive trustee, what class of persons in a fiduciary position are protected by a Statute of Limitations and what are not, you will find illumination of an English statute and of English equitable doctrines in a Candian appeal—because the Canadian statute there in disputes copies the English statute; I have in mind the judgment of Lord Cave in *Taylor* v. *Davies*. So, too, if I want to know more about the law, the English law be it said, as to whether a court can, despite the Statute of Frauds, entertain an action for specific performance of a contract which has been rectified by the court, because what the parties said in the written agreement was not what they meant to say, I can learn it in an appeal from Ontario, because the Ontario legislation, like many another overseas, has copied with tributary fidelity, the provisions of our own Judicature Act.

The law of one English colony is, forensically speaking, foreign to that of another, foreign from the point of view of suing in one British court on a judgment obtained in another British court. And yet how domestic, how familiar, from every other point of view! When the Dominion of Canada and the provinces are at loggerheads about the public right of fishing in tidal waters and the prerogative of the Crown to take it away, you will find the Supreme Court of Canada invoking Magna Carta and the *De Jure Maris* of the most venerable Hale. When the police raid a "bootlegger's" premises for illicit stocks of liquor in British Columbia, the plaintiffs' counsel, in the court of a province, alleging trespass *ab initio*, prays in aid the immortal Coke and the *Six Carpenters' Case*. And if it comes to a question of prerogative, the ambit of English law beyond the seas is wider yet, for the Crown is "one and indivisible" throughout the Empire, nay, as we have been told, is everywhere present in it. An uncharted island rises out of the ocean within the territorial waters of India. To whom does this coral increment belong? Upon whom lies the onus of establishing proprietary right by adverse possession? To decide that question Lord Shaw will take you right back to Hale and to the seventeenth century, to an age when English dominion in India was unknown, when we, the precarious concessionaires of a few factories along a coast, never dreamed that we should one day hold the gorgeous East in fee.

Yet when one emphasises the extension of the common law, and indeed of such statute law as is expository of it or corrective to it, the Statute of Uses and the Statute of Frauds, for example, to all the settled colonies—one must not lose sight of two principles which qualify that extension. It is a legal maxim, a platitude if you like, that English settlors "carry the common law with them," or, as a Canadian judge recently put it, every Englishman who sets out to colonise unoccupied territory carries a pack on his back and a copy of Chitty's statutes in his pocket. I won't quarrel with the metaphor, but it would have to be rather a large pocket and there would be many pages in Chitty which the settler might just as well use to light his camp-fire, for it by no means follows that every English statute, anterior to the date of settlement, applies to a settled colony. The position has been as well as it can be put by a Canadian judge who, speaking of the reception of English law in a settled colony, said: "As respects the common law the reception of

it has been the rule, but as regards the statute law, its reception has been the exception."

Often, as in the case of the provinces carved out of the North-Western Territories of Canada, there has been enacted a statute, in this case a Dominion statute, adopting the whole of the laws of England, in civil and criminal matters, as they stood on a certain date—the classical date in these cases being the 15th of July, 1870. But after such a statutory date or the date of settlement, *cadit quæstio*. The presumption is that no English statute whatsoever will apply unless, as is rarely the case except in merchant shipping legislation—and not always even then—the Imperial Parliament expressly so intends and so enacts. A curious example of this principl- is to be found in the fact that the descendants of the settlers in the Hudson Bay Company's territories, who took the English law with them at the date of the charter of incorpora, tion, namely in 1670, although they knew the Statute of Uses knew nothing as late as the year 1870 in Manitoba of the Statute of Frauds—and appear to have got on very well without it. Whether that is a proof of the sanctity of parol contracts in a virgin community, unspotted by the world, I leave you to decide.

From all this there follows a very important principle laid down again and again by the Privy Council, and that is, that in a case which raises the interpretation of a statute enacted in a settled colony, whose law is our own common law, their lordships will not admit an argument based on English cases interpretative of an English statute, unless the colonial statute is not only in *pari materia* but identical in substance and in fact. Many a time, especially in revenue cases, have counsel arguing before the Privy Council from an English case under our Income Tax Acts, in order to uphold an argument directed towards the interpretation of a Dominion Revenue Act, been pulled up by their lordships with the observation " the English case has no application ; look to the context of the Dominion Statute." The term " testamentary expenses," for example, may have one meaning in an English Estate Duty Act and quite another in an Australian Estate Duty Act. Or, again, you cannot argue from the Company Law of England, where companies are created by a contract, embodied in the memorandum and articles of association, to the company law of the Canadian Dominion, or, as the case may be, of one of its provinces, where companies are created by letters patent or by special Acts. Still less can you argue from the one to the other, across the Atlantic, when it comes to a question of the doctrine of *ultra vires*. To quote their lordships : " It is wiser to look at the Canadian legislation as complete in itself and as unaffected by British jurisprudence." There you have the secret, or one of the secrets, of the hold which the Privy Council possesses upon the affections of Dominion lawyers—I say nothing about politicians ; they know that when they come to Whitehall they will encounter no *insular* attitude. Exactly the same rule is applied by the Privy Council in determining whether you can sue in one Canadian province in respect of a tort committed in another. if Lord Campbell's Fatal Accidents Act, as adopted by Ontario in express terms, confers, as indeed it does, on the representatives of a deceased person what I will venture to call, with some inaccuracy, a heritable right to sue in respect of his death, and the *Quebec* Civil Code confers on his relatives an independent and personal right—why then, you cannot argue from the law of one province, still less from the law of England, to the other, and the fact that, in spite of the deceased having contracted out of his hypothetical right of action, his relatives would still have had a cause of action in *Quebec*, will not help them there if such contracting-out would have been destructive of his claim in the province (in this case Ontario) where the fatal accident actually occurred. That was an application of a well-known principle of " conflict of laws " to the colonies, the laws of which, you will note, are as " foreign," forensically speaking, to one another, as they are to our own. The case I have in mind—I will not pursue it further—is the *C.P.R.* v. *Laurent*, of which I will only say now that it is one of the neatest examples of the point I am tryíng to bring home : namely, that each colony is treated by their lordships as a law unto itself in the best sense of that somewhat ambiguous phrase. The presumption is always in favour of the local law, and English cases will only come into play when that law and our own are the same. The last word is with the local statute ; in other words, with the legislative power of the Dominion or possession.

I know no more remarkable example of this than a case which came, by way of the Supreme Court of Canada, to the Privy Council from Quebec and involved the interpretation of the French law of legal liability as laid down in Art. 1054 of the Quebec Civil Code. I will not go into the legal points, deeply interesting though they are. All I wish to point out is this. Counsel for the respondents argued that the Civil Code of Quebec is founded on the Code Napoleon (which is largely true), and that therefore the recent decisions of the courts in France on the corresponding article in the French Code should be applied, the prior decisions of Canadian Courts notwithstanding. The Privy Council judgment delivered by Lord Sumner, on this particular point, is almost classical in its expression of a governing principle of their lordships' decisions : " Neither the text of the Code Napoléon nor the legal decisions thereon can bind Canadian Courts or even directly affect the duty of Canadian tribunals in interpreting their own law. No doubt, recent French decisions are entitled to the highest respect. But they cannot prevail to alter or control what is, and always must be remembered to be, the language of a legislature established within the British Empire."

Could you have a more remarkable, a more beneficent, illustration than that, of our recognition of the dual principle that where a community, as was the case with the French Canadians, of alien race, alien faith and alien law to our own, comes under the Crown, not only shall their law be respected but their power to develop it in their own way and by their own legislature be upheld ?

And this brings me to another point. A few weeks ago a distinguished lawyer, closely connected with this College, Sir Maurice Sheldon Amos, delivered a brilliant and arresting lecture on the Code Napoléon and its peaceful conquests in other countries than its own. He pointed out how it had saturated Egypt, percolated Persia, influenced Western Germany, and become a kind of Holy Writ in Argentina. It had become, as he graphically put it, one of France's invisible exports to many, if not most, parts of the world, and he hinted, or seemed to hint, that we had lost a great opportunity, of which the French had taken due advantage, in not having long ago had ready for exportation a code of our own. With all respect, I think he overlooked two important facts : one that we have codified much of our own law in and for India, and, with it, have " colonised " Eastern Africa, the Straits Settlements, Ceylon and the Sudan ; I refer to the Indian Penal Code which Stephen described as simply " the Criminal Law of England freed from all technicalities." There is also the Indian Evidence Act. The other fact which I should emphasize is this : If we had codified our own law, including our statute law, into one great civil code, would our Dominion overseas have adopted it ? I doubt it. For they would have been put to their election : to take all or have all. As things are, they have followed the empirical method, so characteristic of Englishmen, and, I think, so sound, of adopting such modern English statutes as suited their purpose and rejecting such as did not. The extent to which they have done the former is remarkable : the Bills of Exchange Act, the Sale of Goods Act, Lord Campbell's Act, the Workmen's Compensation Acts, the Companies Acts, the Marine Insurance Act, the Summary Jurisdiction Acts, the Lands and Railway Clauses Consolidation Acts, and, in many Canadian provinces, our Divorce and Matrimonial Causes Act, and, most lately of all, our Carriage of Goods by Sea Act—all

these have been re-enacted in one Dominion or another. The Colonial Courts of Admiralty almost invariably adopt the Rules of our own Admiralty Division of the High Court. Such voluntary uniformity of legislation makes for unity of law, and I confess that I am more concerned to see unity of law within the Empire than to see the expansion, by way of exportation, of English law to countries outside it.

When, as in the cases I have indicated, our Dominions overseas adopt our own legislation, then, of course, they follow the decision of English Courts, and so, on appeal, does the Privy Council itself. At first sight the legislative independence, relatively speaking, of our overseas possessions, seems the very dissidence of dissent. But in the long run it is making for unity. Left to themselves, legislatively speaking, by the Imperial Parliament, the Dominions have been quick to follow where they would never have allowed themselves to be driven. And the more they follow English legislation, the more will they feel themselves compelled—I venture to think—to accept and maintain the appellate jurisdiction of the Privy Council. After all, if they are going to assimilate, as they appear to be doing, their commercial and maritime law to that of the mother country and of one another, the more imperative will it be that such uniform legislation should receive a uniform interpretation. That is why, in default of a Privy Council decision, they will follow even now a decision of the Court of Appeal or of the House of Lords. Many years ago, Maitland, in a pessimistic moment, spoke of the prospect of the common law of one Dominion "swerving" from that of another and both from that of England, adding apprehensively, "If English lawyers do not read colonial reports, colonial lawyers will not much longer read English reports." It would be unsafe to assume that a scholar, at once so brilliant and profound as Maitland, had ever omitted to read anything, but I cannot think that he had studied very closely the Law Reports of our Dominions. If he had, he would have discovered that Dominion lawyers not only read our Law Reports but apply them. It is a curious paradox, but it is a fact, that the High Court of Australia in constitutional cases—such as *The King* v. *Barger*—being cut off from the Privy Council jurisdiction in such matters, has frequently sought support for their decisions in the judgments of the House of Lords. There was a striking example of much the same thing in the great "colour bar" case in South Africa two years ago—the case of *Rex* v. *Hildick Smith*.

Such is the intellectual empire of English ideas. The march of ideas in time, so a great German jurist has told us, is even more marvellous than the movements of the heavenly bodies through space. Such a progress of ideas began in the Council-chamber of our Tudor Kings in a small northern island then girt by lonely seas; to-day this mighty jurisdiction has encircled the habitable world. Its history I will not attempt to trace to-night—I have done it, or tried to do it, some fourteen years ago, when standing in this place and delivering the first of these Rhodes Lectures before a predecessor of his lordship's on the Woolsack, Lord Haldane. To-night my object is more practical—I had almost said political.

Now I can well imagine that, up to this stage of my allocution those of you who are not lawyers—and, for all I know there may be many such here to-night—may have begun to say to yourselves: "Enough of all this tithe and mint and cummin of the law. Enough, and more than enough, of these strange terms of endearment such as specific performance, *certiorari*, estoppel, and fee tail with which these lawyers woo their aged and uncomely mistress in the Temple. What we want to know is what all this has to do with the unity of the Empire." My answer is, a great deal. For the secret of the tie which unites this Empire of ours, an Empire which defies all efforts at analyses by foreign jurists for they cannot fit it into any of their categories of "Staatenbund" and "Bundesstaat," is simply this: the autonomy of local law is the rock on which it is built. And not merely autonomy of local law but autonomy of local law-making—in other words, legislation. There are some twenty-eight legislatures in the British Empire cast in the very model of our Parliament at Westminster, and if you include—as indeed you must—the Indian Legislatures and those Crown Colonies which have what is called a representative legislature and possess a grant of power (it is common form), to make laws "for the peace, order and good government" of the possession, why then you must double the number. And with striking uniformity the Privy Council has always laid down two principles in regard to them: one that, within their territorial ambit, and subject to any federal distribution of powers, they are as "sovereign" (the word has actually been used in one of its judgments) as the Imperial Parliament itself; the other that, as a rule of construction, Acts of the Imperial Parliament can only bind them by express words or necessary intendment. Of this principle of legislative autonomy the Privy Council has often been even more solicitous than the Dominion Courts themselves—there was a striking example only two or three years ago in the case of *McCauley* v. *The King*. More lately Lord Haldane, in a remarkable utterance on the hearing of the first group of appeals from the Irish Free State, has observed that their Lordships will take "judicial notice" of the growth of Dominion autonomy. And the same eminent lawyer in dismissing a petition for special leave from South Africa said, with equal force, "one must look at this from a South African point of view."

Why then, it may be asked, have we heard so much of late—of a certain restiveness in one or other of the Dominions overseas—I will not call it hostility—against the appellate jurisdiction of the Judicial Committee. The right of appeal—which must be carefully distinguished from the prerogative to grant special leave to appeal—has been abolished by their respective constitutions in South Africa and the Irish Free State, it has been excluded from the domain of constitutional interpretation in Australia, it has been the subject of animated controversy in Canada extending to the prerogative itself. Some of you may recall the agitation in Canada less than two years ago over the decision of the Privy Council in *Nadan* v. *The King* when their Lordships decided that a certain clause in the Criminal Code of Canada could not operate to bar the prerogative, resting as that prerogative does on an Imperial statute of Imperial intendment. The important thing about that controversy was not the legal merits of the decision, which, to my mind, was absolutely unimpeachable and such as every lawyer who knew his law might have anticipated, but that such a controversy should have been raised at all. Now here I am treading on very delicate ground—I know it—but if I wanted support for my argument in favour of the maintenance unimpaired of the Privy Council's jurisdiction in Canadian appeals, whether by special leave or otherwise, I should have no difficulty in finding it among Canadians themselves. There are many proofs of that. If you look up the pleas of *The Times* for the last two months of the year 1920, you will find an interesting revelation. Our distinguished Chairman (Lord Cave) in a letter to *The Times* of 29th November, gave it as his opinion, on returning from a visit to Canada that the Canadian feeling was generally favourable to the retention of the right of appeal from the Supreme Courts of the Canadian Provinces. His statement was thereupon criticised with some asperity in certain not very representative quarters in Canada. The sequel is interesting. Four Canadian lawyers of distinction immediately addressed a remarkable letter to *The Times*, in which they jointly and severally approved of all that Lord Cave had said. Indeed, I am sometimes inclined to think that all this controversy is not a controversy between this country and Canada at all, but a controversy between different schools of thought, possibly even different factions of politics, in Canada itself. And in Canada it must be fought out. The day has gone by when the Imperial Government would oppose such a change. The main question is whether the

abolition or limitation of the Privy Council jurisdiction would be in the interests of the Dominion itself, and on that, I, in common with many Canadians, have my doubts—of which more in a moment. Some of the agitation is really rather fictitious—I have in mind all the heavy artillery brought to bear by Mr. Cameron, K.C., of the Canadian Bar, against one of the new Rules (r. 2) of Practice issued by Order in Council in 1925, and its effect on what he regarded as the power of the Ontario and Quebec legislatures (to say nothing of the Dominion) to bar the prerogative, of which attack Mr. Justice Hodgkins of the Ontario Supreme Court bluntly said it was a "commotion in a teapot." A witty lawyer in the pages of that admirable periodical, the *Canadian Bar Review*, has gone further in deprecation, and in an article entitled: "A Plea for Statutory Relief from the Privy Council Controversy" has said that the root of the whole trouble is that the distinguished judges of the Supreme Court of Canada will persist in publishing their dissenting and indeed their concurring judgments, and he contrasts it with the practice of the Privy Council, of which he says: "What gives such imposing respectability to the Privy Council is its unity. There may be considerable diversity of opinion, doubts, hesitations and dissent, behind the curtain in Whitehall. But when the curtain goes up, one judge delivers the opinion of the court and it is law. It does not sprinkle, like a garden hose, it hits like a hammer of Thor." I will not endorse that criticism, if criticism it was meant to be, of the Supreme Court of Canada—it would be an impertinence if I did, and I am much too conscious of all that I have learnt, and have yet to learn, from its most weighty judgments. But as regards the Privy Council, the statement has both truth and value. Long ago, in a little known but most suggestive treatise, Lord Selborne emphasised the importance of a single judgment in the case of a tribunal which, like the Privy Council, has to administer law not only to the litigious peoples of the East but to the conflicting jurisdictions of a Federal Dominion. I confess that I feel—and I happen to know that some distinguished Australian lawyers share my feeling—that in reading the infinite variety of judgments of the Australian High Court, often in one and the same case, on the subject of Federal jurisdiction in industrial disputes, I have often wished that that great court made use, not of a garden-hose, but of the hammer of Thor. And if you collect the cases in which the High Court has certified a constitutional issue for appeal to the Privy Council, you will invariably find that they have certified it because they are so divided among themselves that nothing but the hammer of Thor can help them out of the *impasse*.

After all, there is much to be said for a single judgment in a Supreme Court of Appeal, just as there is little to be said for it in a court below. I will not labour that point. But by a single judgment I mean a judgment singly delivered, i.e., a judgment in which there is not only no utterance of dissenting opinion but no separate manifestation of concurring opinion. Concurring opinions are sometimes almost as mutually contradictory as is a minority opinion from a majority opinion, and many a student of the law reports has been puzzled now and again to find two or more judges agreeing in one and the same conclusion for diametrically opposite reasons. That is not helpful either to lawyer or to litigant. I may at once illustrate my point and conclude it by the story of a Scottish counsel who was arguing at great length before the Court of Session. After listening to him for some hours with considerable patience, the Lord Justice Clerk intervened with: "Mr. ——, I am sorry to interrupt you, but I would point out to you that you have addressed to us no less than four mutually contradictory arguments in support of your case." "Yes," my lord, replied counsel with a bow, "but I have always borne in mind that there are four of your lordships."

But let me return for a moment to the Canadian Constitution, for of the Privy Council it may truly be said, with even more truth than was said of the American Constitution and Chief Justice Marshall, that it has "made" the Canadian Constitution, and if the Privy Council had not existed you would have had to invent it to fulfil that very purpose. Mr. Justice Duff has lately said almost as much, though in different language from my own. And in those decisions of their lordships I seem to see a manifestation of the very genius of the English race—their lordships have never been logical—God forbid! for the life of the law is not logic but experience—never theoretical, never doctrinaire. They have rejected that whole train of reasoning about "the immunity of instrumentalities" in a federal constitution which the Supreme Court at Washington has applied, as someone has said, with the fierce logic of the nursery rhyme about the house that Jack built. Perhaps only once have they committed themselves to a broad generalisation, namely, in the *Russell Case* of some forty-five years ago, a case which, as Lord Finlay has remarked, went wandering about for years afterwards in the arguments of counsel like a derelict ship, to the infinite peril of the navigation of the Constitution, until ,with one well-directed torpedo Lord Haldane in the *Toronto Electricity Commissioners Case* sent it to the bottom. No, what you will find in all these Canadian cases is that their lordships are always slowly but surely feeling their way, always heaving the lead in the shoal-water of a federal constitution. "Every case," they seem to say in words reminiscent of the sagacious Halsbury, "is only an authority for the particular point it decides." They are simply concerned to maintain a just equipoise of Dominion and provincial rights. They favour neither the one nor the other. In that great group of consolidated appeals known as the *Great West Saddlery Case* they preserved the balance by leaning to one side; in the recent *Reciprocal Insurers'* and *Toronto Electricity Commissioners' Cases* they redressed it by leaning to the other. The latter two cases were the culmination of a long dexterous sinewy struggle between the Dominion Parliamentary draftsman on the one hand and the Judicial Committee on the other. The defeat of the ingenious devices of the former may quite possibly have produced some political feeling in Dominion circles, but certainly not in the provinces. But that is inevitable in a federal constitution, where, under the stress of modern economic conditions and the growing integration of commercial intercourse, the federal legislature is always seeking, as in America, in Australia, in Switzerland, in Germany, to escape from the strait-jacket of the Constitution in the direction of powers adequate to deal with the gigantic growth of modern commercial enterprises. The quarrel here is not with the Privy Council but with the Canadian Constitution itself. That Constitution, like all federal constitutions, has sacrificed flexibility to rigidity, progress to stability. The result is a continual straining at the leash. I am not at all sure that in such cases the appellate jurisdiction of the Privy Council is not something of a lightning conductor. That very remoteness from the scene of political controversy in the Dominions which some of its critics regard as a weakness, wiser men will regard as a source of strength. Although the independence of the Canadian judiciary is unimpeachable, its decisions in such questions, if put beyond the possibility of appeal, might easily expose it to political attack, leading perhaps to the determination of judicial appointments by political considerations, possibly to the introduction from over the Canadian border of that unhappy institution, the "Recall of Judges" which is practised in some American States. Even the Supreme Court of the United States, as you will find if you consult the Congressional Record, has been exposed to the threat of such an institution. The contagion of American political ideas is already evident in the legislation of Saskatchewan and Manitoba, where the adoption of the Initiative and Referendum is already sapping the very foundations of the Parliamentary system and of responsible government. The danger I indicate is therefore not an unreal one.

As to the other Dominions—well, I will only say this. It is a curious and notable fact that where the right of appeal has been restricted or abolished, the courts of such Dominions

have, after some wandering up alien tributaries of law, nearly always swung back into the main stream of Privy Council decisions, or, failing them, of the House of Lords. The very first case in South Africa of any constitutional importance, the *Middleburg (Municipality) Case*, followed the Privy Council decision in *Bank of Toronto* v. *Lamba*. In a recent leading case, known as the *Engineers Case*, the High Court of Australia itself, after years of vagabondage in the wilderness of American constitutional doctrines as to the "immunity of instrumentalities," came right back to the principle of Privy Council decisions, the principle that a constitutional statute must be interpreted like any other statute and without exotic notions about "implied restraints." When one remembers the excitement in Australia some twenty years ago over the conflict between the decisions of the High Court and the Judicial Committee respectively, in the group of constitutional cases known as the *Income Tax Cases*, one of which managed to slip through the net of art. 74 and came to their lordships for hearing, well, this recent conversion—I can call it nothing else—of the High Court to the law laid down by their lordships in *Webb* v. *Outtrim*, is a notable tribute to the authority of the Privy Council as a fountain of law long after its jurisdiction has been taken away. And I might, if I had the time and you had the patience, say something very similar about South Africa, where, indeed, one distinguished South African lawyer, Mr. Manfred Nathan, K.C., has recently written of the abolition of the right of appeal under the Union Act, that the general opinion of the legal profession in South Africa was adverse to its abolition, that the people of South Africa were never consulted about it, and that many of them would like to restore it.

But the Judicial Committee is sometimes exposed to attack from other quarters on other issues—most notably in respect of the rule laid down by it as to the extra-territorial limitation on the powers of Dominion legislature in *Attorney-General for New South Wales* v. *MacLeod*. Ingenious attempts have been made by Parliamentary draftsmen to defeat the operation of that rule, as in the case of Canadian and New Zealand bigamy legislation, but very few Dominion lawyers, except the late Sir John Salmond, and still fewer, if any, judges, except the Chief Justice of New Zealand, have questioned its soundness—the High Court of Australia has frequently upheld it. Its abolition by statute would lead to the most appalling confusion, such as would be involved in one Dominion legislating in respect of acts done or persons situate in the territories or upon the ships of another—the New Zealand shipping cases have furnished abundant proof of that. And the enabling and adoptive clauses of Imperial Acts have met and can still meet, any difficulties that really arise. But the Judicial Committee itself has relaxed, in favour of Dominion autonomy, the rule, as far as is consistent with the existence of the rule at all. The case of *Cain* v. *Gilhula* is a case in point. And anyone who has studied the decision of the Australian High Case on legislation, such as the War Precautions Acts, arising out of an exercise of the "defence power" in time of war, knows that the existence of the rule is not at all incompatible with the widest exercise, for all practical purposes, of Dominion powers of legislation.

Let me, in conclusion, summarise very briefly the extent to which of late years, alike by judicial decision and by Order in Council—in the case of the Judicial Committee they are, formally speaking, indistinguishable, for the former are always embodied in one of the latter—elasticity, autonomy, if you prefer the word, have been imparted to Dominion and colonial courts. First and most notably there is the delegation, by the Orders of 1908, to colonial courts of the prerogative to grant special leave to appeal. That is, in fact, the grant of a dispensing power, nothing less. Next, there is the rule laid down by their lordships that when there is a Supreme Court in a Dominion whose judgments are "final" and there are other courts in the same Dominion, as in Canada and Australia, from which there lies a direct appeal to the Privy Council, they will hesitate long before they grant the litigant special leave to appeal from the Supreme Court of the Dominion after he has elected to go to it. Unless the matter is one of very great importance or there is a great diversity of opinion in the court below, he must abide by his election. That is a proof of their lordships' respect for the highest court in each Dominion. Then again, there is the rule, laid down long ago in *Dillet's Case* that the Council will not entertain appeals, or rather petitions for leave to appeal, in criminal cases, unless some grave and substantial injustice has been done—deprivation of a constitutional right to be tried by jury would be one such a case, the improper reception of evidence essential to a conviction would be another—otherwise they will not interfere, for to do so would be to invade the local administration of justice. It is for that very reason that Lord Cave laid down in a very recent case that their lordships will not grant special leave to appeal in a question of construction of the Criminal Code of Canada. Then again, they will, like every other appellate tribunal, be reluctant to intervene in questions of evidence against a tribunal which has had the advantage of seeing and hearing the witnesses itself. So also, when, by the local rules of procedure, the local court has been invested with "discretion"—for example, in granting a decree of separation in Quebec or in setting aside an arbitrator's award in British Columbia—they will not interfere with the exercise of that discretion. Lastly, they will hesitate long before allowing an appeal against an order for a new trial on the ground that the damages awarded are excessive, for the measurement of damages is a matter affected and qualified by local conditions in the place where the cause of action arose, and where the action was tried. It needs, I think, no emphasis from me to point out that all these rules are mainly inspired by one guiding principle—which is to avoid disturbing the confidence of British subjects overseas in the prestige, the authority and the discretion of their own tribunals.

There are many other examples—I will only glance at one of them. There is the provision by statute after statute for the creation of a truly Imperial panel of judges consisting of judges of the Supreme Courts of the Dominions and of India and for the appointment as assessor of a judge of any court from which an appeal is brought. It is in virtue of the former departure that the Judicial Committee is occasionally graced by the presence of Mr. Justice Duff from Canada and Mr. Justice Isaacs from Australia, two judges who, as you will know if you read the Dominion Law Reports, would lend weight, dignity and authority to any tribunal in the world.

It is difficult, I think, to suggest what more might be done to defer to the susceptibilities of the great Dominions overseas, compatibly with the retention of any appellate jurisdiction at all. I sometimes wonder whether, if a plebiscite were taken in any of the Dominions on the subject, you would not find an overwhelming expression of opinion in favour of the retention of that jurisdiction unimpaired. After all, there are the peoples as well as the Governments, and it should never be forgotten that the prerogative to grant special leave to appeal is based on the principle that every British subject has a right to approach the mercy seat of the throne. Upon the retention of that prerogative rests the great rule of English liberty that the King has a right to inquire into the cause of the detention of any of his subjects, and it is in virtue of that prerogative that that magic turnkey, the writ of *habeas corpus*, may be applied for in Whitehall against any court which unjustly and without due cause refuses it. It is in virtue again of that principle that you will find in the new Rules of 1925 special provision for poor suitors, exempting them from security for costs and from the payment of court fees. No petitioner, however humble or obscure, is turned away. All a man has to do if he is what the law calls a poor person, in other words wishes to sue *in formâ pauperis*, is to swear an affidavit that, to quote the rule, "he is not worth £25 in the world excepting *his* wearing apparel."

But it is time, and more than time, that I made an end. If I have taxed your patience, I would ask you to bear in mind that my subject is vast, nay œcumenical, in its scope, and that even as it is, I have had to leave on one side many things—most notably that statutory power of His Majesty in Council to refer any question he thinks fit, whether partaking of a litigious character or not, to their lordships for an answer. In some ways, on some occasions, it may act as a kind of safety-valve in the Constitution—I am thinking of the *Irish Boundary Case*. In others, especially in the form it has been adopted and extended by Dominion and provincial statutes in Canada, it has much to be said against it, for it may involve the submission to a court of questions of a purely hypothetical character without any reference to actual facts, and the answers to which, if given, may prejudge a case that has yet to come before the judges. The peremptory consultation, nay, the interrogation, of the courts by the Executive is, I think, nearly always objectionable for reasons with which those of you who know your Coke and Mansfield will be familiar enough. Canadian judges do not like it, and I suspect that their lordships of the Privy Council like it even less. The High Court of Australia has repudiated it; the Supreme Court at Washington has never admitted it. I was looking the other day, in the 1916 reports, at a reference from Canada on insurance legislation in which the Attorney-Generals of no less than seven Canadian provinces were joined as appellants, and their lordships were set an examination paper of seven questions with no options. They were not told if all the questions carried equal marks and many of them were of a kind which Bar students would call a *trap*. Their lordships did not pass with honours! Perhaps they had in mind that aphorism of Professor Marshall that by the age of twenty-two examinations have done all the good, but not nearly all the harm, they can do a man. The result was unsatisfactory, not because, unlike the ordinary examinee, they could not answer the questions (I should be surprised to find their lordships unable to answer any question of any kind), but because they declined, and for very good reasons, to answer them. The questions were dangerously hypothetical. None the less, the reference power has its uses. It is by the Imperial exercise of it that the great *Labrador Boundary Case* has just come before their lordships, for there is no other method, except in Australia, by which one State within the Empire can sue another, if suit it is to be called.

A word and I have done. If one or other of the Dominions desire further restrictions on this august jurisdiction, the British Government is not likely to say them nay, nor would any responsible person over here urge that it should. The Empire would, I suppose, survive it. But there is one consideration I would venture to urge against it in the interests of the Dominions themselves. Once establish the complete independence of the Dominion courts, including the barring of the prerogative as to special leave, and they may find that to the existing "conflict of laws" will be added what American lawyers, in particular the American Law Institute, know to their cost, as a "conflict of conflict of laws"—in other words a conflict among the Dominion courts as to the principles to be applied to the resolution of cases which arise, and of course always have arisen, owing to inevitable variances of law in the different jurisdictions. Such a "conflict of conflicts" would be disastrous to the commercial intercourse of one Dominion with another. The English courts, in refusing to allow the validity of "colonial judgments" to be impeached on any other grounds than would apply to any other "foreign" judgment long ago took "judicial notice" of the appellate jurisdiction of the Judicial Committee, and emphasised its importance in this respect—witness, for example, the words of Lord Campbell in *The Bank of Australasia* v. *Nias*, L.J. 20 Q.B. at p. 283 (1851) and of Page, V.C., in *Simpson* v. *Fogo*, 1863, 1 H. & M. at p. 226. And for this reason, if for no other, the preservation, in all its present integrity, of the jurisdiction of the Privy Council is vital, not indeed perhaps to the continued existence of the Empire, but to the growing intimacy of its commercial intercourse, and the organic unity of its social life.

In a certain clause in the British North American Act, you will find it said that the great lands of that superb Dominion are vested in the King *in trust* for the provinces. In trust! One need not be a lawyer to know that a trust means a fiduciary duty, nay a moral obligation. The Privy Council, too, has had vested in it a trust—a trust for millions of people overseas, the kind of trust that loveth justice and hateth iniquity. Faithfully have their lordships discharged their trust. If then you ever have doubts about the high destiny of your Empire and its fiduciary character, if you are ignorant, uncertain, diffident as to what it has done for those law-abiding instincts of the human race which are the only hope of human civilisation, why then I counsel you to turn to the Privy Council Reports, and there you may read—it may be, if you are not a lawyer, as in a glass darkly, but reflected therein none the less—the undying story of the trusteeship of your race.

THE CHAIRMAN: Your Excellencies, my lords, ladies and gentlemen, I have now the very pleasant task of asking you to pass a vote of thanks to Professor Morgan for his very interesting lecture. Perhaps you would not wish that I should not say a few words about it, but of course, it is very difficult to make any remarks which are made after a lecture which you have not seen, anything but discursive. I have not the opportunity of making what would be an amusing scene such as I once saw at the Boz Club. The Boz Club, I daresay some of you know, is a club which celebrates the memory of Dickens on certain occasions with a dinner, a paper being read. The late Lord James of Hereford was the guest of the evening and read the paper, and Lord Halsbury was the chairman. When the paper was read Lord Halsbury made the most trenchant attack on all that Lord James had said, and Lord James, as he went out, said to me "How horrible of Lord Halsbury, and would you believe it, I gave him my notes." I only thought that Lord James must have known very little of Lord Halsbury when he ventured to do so.

I will just mention very shortly some of the things that struck me. In the first part of the lecture, the lecturer impressed upon us the great rule in our Judicial Committee that we should not introduce English law into places where it has no business to be introduced. Well, I felt very secure upon that matter. No one is much troubled by temptations which do not assail him, and as I was brought up on a system of law which was not English, I never felt inclined to introduce English law into any other country. Of course, there are certain places, Ontario, for instance, where by statute it is the English law which, at a certain place or in certain ways, is the law of the land. In other places it is not so. The only place where I have seen any sort of temptation to introduce, or any tendency to introduce, the English law where it ought not to be, is in some of the districts of India, where occasionally an English lawyer who is a judge out there has been rather too reminiscent of his old law. I certainly have always set my face against that, and I think we have done it successfully.

The second subject on which I would like to say a word is really a most controversial one, because it is a subject on which there are enormous differences of opinion. That is, the question of the single judgment. There are some people who think it would be very much better that instead of a single judgment of the Privy Council, we should each give a judgment as we do in the House of Lords. I am not going to express any opinion on the merits of it, but I might mention one thing which was not mentioned by the lecturer. There is at least this reason for the single judgment in the Privy Council, which there is not in the House of Lords. In the House of Lords we are a court and each judge gives his opinion, the question is put just as any other question is put in the House, that is to say, those who are for reversing "Content"; and the others "Not Content," and whichever side is in the majority has it; we are judges. In the Privy

Council we are not judges, we are advisers of the King, and a Privy Council so-called judgment is nothing more than that we humbly advise His Majesty to do so-and-so. Of course, it would be ridiculous to have five people advising His Majesty each in a different way, and therefore there is that, so to speak, historical reason for the Privy Council judgment being delivered as it is.

I should certainly be very sorry if the idea of the single judgment was extended to the courts below. I do not think we should really know very often when to grant leave to appeal and when not. I have not the least intention to be slighting about it, and after all it is a matter which can be seen by anybody who reads the reports, but there is no Supreme Court that has so many dissenting judgments as the Supreme Court of Canada. Of course, if we find that a judgment is decided by three judges, one way, and two the other way, it is very often a good reason for allowing an appeal. I should be very sorry if the idea of a single jndgment was extended to the courts below.

One word as to Professor Morgan's concluding topic as to these questions of reference. The learned lecturer is quite right in saying that we do not view with favour legislation which allowed people to put conundrums to a court, and, those conundrums having been answered by the Court of Appeal, to bring them up to us. The power of reference has been very beneficially exercised occasionally, but very sparingly, and one great instance is the *Labrador Case*, just over. The members of the Privy Council are on a perfectly different footing. The legislation of the colony has laid down that if Mr. A and Mr. B put their heads together and say: "We want an answer to such and such a question," they have a right to go to the court and ask for it. There is nothing of that sort in the reference to the Privy Council. That reference can only be made when the King chooses to make it, the King in this matter, as in all others in this country, acting on the advice of his advisers. Therefore it is a really valuable addition to the Privy Council's judgment and has not any of the abuses which the legislation alluded to may very well have. I am glad to say that I think the practice is rather in desuetude. I have not been troubled lately with any of these conundrum cases that at one time rather threatened to assail us.

I will not detain you any longer; I am sure you will all join with me in a very hearty vote of thanks to Professor Morgan. (Applause.)

Correspondence.

Devolution of Settled Land on Death of Tenant for Life.

Sir,—With reference to the four cases discussed in your issue of the 19th inst., under the heading "A Conveyancer's Diary," we have come across a case which you may consider of interest to the profession.

A died in 1873, having by his will devised all his real estate to five persons as tenants for life successively. B, the last tenant for life, died in June, 1926.

The testator appointed no trustees. In 1888 trustees for the purposes of the Settled Land Act, 1882, were appointed by the court, and in 1920, C and D were by deed appointed trustees for the purposes of the Settled Land Acts 1882 to 1890 in the place of the former trustees.

The personal representatives of B have taken a general grant, and as they were not aware that any settled land was vested in B, the settled land was not excepted from the grant.

The following points arise:—

(1) Are C and D the trustees of the settlement under s. 30 of the Settled Land Act, 1925? They are not trustees with power of sale or with power of consent to, or approval of, the exercise of a power of sale, either present or future or in respect of the land in question, or any other land comprised in the settlement, nor are they persons *declared by the settlement* to be trustees for the purposes of the Settled Land Act, 1882 to 1890.

(2) If they are not the trustees of the settlement under s. 30 of the Settled Land Act, 1925 are they trustees of the settlement under any other section of any of the recent Acts of Parliament?

(3) If they are trustees of the settlement it is presumed that they must either take out a grant themselves after obtaining a revocation of the grant to the general personal representatives of B, or they must renounce their right to take a grant leaving the general personal representatives of B to deal with the legal estate vested in them.

Yours faithfully,

London, W.C.2. BEAUMONT, SON & RIGDEN.
24th February.

[(1) and (2) C and D are S.L.A. trustees under S.L.A., 1925, s. 33 (1).

(3) Yes. If the land ceased to be settled land (except for purposes of the Ad. of E.A., 1925, ss. 22–4) by the death of B, the better course is for C and D to renounce.]—ED., *Sol. J.*

Question 694—Points in Practice.

Sir,—I enclose a passage from page 11 of "The Yorkshire Registries Acts, 1884 and 1885," by C. J. Haworth (Stevens and Sons, Limited, 1907), which might be a help to your questioner. The passage is as follows:—

"In the case of an equitable mortgage, lien or charge, which may be satisfied by an endorsed receipt, such satisfaction is frequently recorded by the registration of a full copy of the receipt, and in that case Form N. 1A, is slightly altered and adapted to the case. Whilst it is conceived the registrar has no power to take exception to this procedure yet it is evident, from Rule 15, that it was contemplated that satisfaction would be entered by use of the affidavit of discharge.

"If this procedure is adopted, the provisions of sub-s. (3) of Rule 15 should be carefully observed as to the production of the charge duly cancelled, and also as to the course to be adopted when the original charge has been lost."

My firm do a lot of bank work in the West Riding, and the discharge of all manner of equitable securities arises. We do it whenever applicable by way of a full copy of such a receipt as your questioner mentions, on the Registry Form 1A slightly altered, and neither the bank for whom we act nor the registrar ever questions it.

So long as the registrar is satisfied, I do not see that the bank is concerned with the procedure.

To discharge a caveat is another matter. There the affidavit and consent are necessary.

Yours faithfully,

Sheffield, X.Y.Z.
3rd March.

Probate Costs.

Sir,—In reply to your invitation to readers of the *Journal*, to state what the practice is with respect to the charges mentioned in the letter from "Y," in your issue of the 5th inst., our practice is to include the items he mentions in the charges for "Probate under Seal, Extracting and Clerk's fee." If "Y" will refer to "Summerhayes & Toogood's Precedents," 10th Ed., p. 795 (footnote), he will find that this is the view there adopted.

BEACHCROFT, HAY & LEDWARD.

London, W.C.1.
8th March.

[Our thanks are due to Messrs. Beachcroft, Hay & Ledward for kindly supplying this information.—ED., *Sol. J.*]

High Court—Chancery Division.

In re Ryder and Steadman's Contract.

Astbury, J. 17th February.

LAW OF PROPERTY—TRANSITIONAL CLAUSES—UNDIVIDED SHARES—ENTIRELY SUBJECT TO JOINTURE—SETTLED LAND—STATUTORY TRUSTS—IN WHOM VESTED—LAW OF PROPERTY ACT, 1925, 15 Geo. 5, c. 20, Sched. I, Pt. IV, s. 1, s-ss. (2) and (3)—SETTLED LAND ACT, 1925, 15 Geo. 5, c. 18, s. 1, sub-s. (1), cl. V and VII.

The words "settled land" in Sched. I, Pt. IV, s. 1, sub-ss. (2) and (3), bear the extended meaning given to those words by the new law commencing on 1st January, 1926, and not the meaning which they bore under the old law before that date.

Vendor and Purchaser Summons.

This was a summons taken out by vendors asking for a declaration that they had shown a good title. The facts were as follows: In April, 1924, under and by virtue of a resettlement dated 14th July, 1866, a marriage settlement dated 6th November, 1869, which appointed a jointure to a wife and a term to secure it, a marriage settlement dated 19th July, 1897, and a deed of disentail dated 10th March, 1920, certain freehold estates which included Blackacre stood limited subject to the jointure to such uses as the Duke of Marlborough and the Marquess of Blandford should jointly appoint. On 14th April, 1924, by a conveyance on sale of that date, the Duke and the Marquess appointed Blackacre to the three vendors in fee simple as tenants in common in equal shares, subject to the jointure, but with an indemnity therefor. On 13th February, 1926, the three vendors entered into a contract to sell Blackacre to the purchaser for £1,700, subject to the jointure, but with the benefit of the indemnity, so that the jointure did not in fact affect the price. It was admitted that Blackacre was not settled land before 1st January, 1926, but the purchaser submitted that on that date, owing to the jointure, it became settled land under the Settled Land Act, 1925, s. 1, sub-s. (1), cl. (v), and therefore settled land within the meaning of the Law of Property Act, Sched. I, Pt. IV, para. 1, sub-paras. (2) and (3). It therefore vested in the trustees of the compound settlement constituted by the above deeds, or in default in other persons under sub-para. (3) on the statutory trust for sale, and not in the vendors under sub-para. (2) on the same statutory trusts. On this vesting no doubt s. 1, sub-s. (1), cl. (v), of the Settled Land Act no longer applied, as is shown by cl. (vii), but it had applied momentarily for the purpose of determining in whom Blackacre was to vest. On the other hand, the vendors contended that Blackacre "not being settled land," immediately before Sched. I, Pt. IV, came into operation, had vested in them on the statutory trusts under sub-para. (2). The relevant parts of the statute are as follows: By Sched. I, Pt. IV, headed "Provisions subjecting land held in undivided shares to a trust for sale," it is provided by para. 1 that where "immediately before the commencement of this Act" land is held at law or in equity in undivided shares vested in possession, "the following provisions shall have effect." Then sub-para. (2) provides that if the entirety of the land "not being settled land" is vested absolutely and beneficially in not more than four persons of full age entitled thereto in undivided shares free from incumbrances affecting undivided shares, but "subject or not to incumbrances affecting the entirety," it shall by virtue of this Act vest in them as joint tenants upon the statutory trusts. By sub-para. (3) it is provided that "if the entirety of the land is settled land," whether subject or not to incumbrances held under one and the same settlement, it shall vest in the trustees (if any) of the settlement as joint tenants upon the statutory trusts, and, if none, in the Public Trustee or other persons therein mentioned on the same trusts. It was not disputed that Blackacre had vested in somebody on the statutory trusts, viz., the trust for sale, etc., under s. 35, which was a case to which the Law of Property Amendment Act, 1926, 16 & 17 Geo. 5, c. 11, admittedly had no application, so that the only real question was whether Blackacre had vested in the three vendors under sub-para. (2) or in the trustees of the compound settlement or other persons under sub-para. (3).

ASTBURY, J., after stating the facts, said: The question depends on the meaning of "settled land" in Sched. I, Pt. IV, s. 1, sub-paras. (2) and (3). Does it mean "settled land" within the meaning of the old law immediately before 1st January, 1926, or "settled land" within the extended meaning in the new law commencing on that date? The latter meaning is clearly adopted in "Wolstenholme and Cherry's Conveyancing Statutes," 11th ed., vol. 1, p. 503. There is no doubt some ambiguity in the words, but on the whole I am of opinion that the second meaning adopted by "Wolstenholme and Cherry" is correct. It is more consistent with the general object of the Act, and the vendors' view would give rise to many difficulties. For instance, an estate limited before 1926 in trust for two married women in fee simple as tenants in common with restraints on anticipation becomes settled land under the new law. But according to the vendors' contention, they could sell the land as joint tenants holding on the statutory trusts under sub-para. (2). It is impossible to imagine that this was the intention of Sched. I, Pt. IV. There is no doubt that the Acts have worked a very serious hardship on the vendors, who, having a good and simple marketable title immediately before the Acts, can now only sell their land by complying with the statutory formalities, and even then cannot receive their purchase money during the life of the jointress, as the conveyance by the compound settlement trustees will overreach the jointure, which will shift to the purchase moneys (see Law of Property Act, 1925, s. 2, sub-s. (1), cl. (ii)). The result is that the vendors have not shown a good title, and the summons must be dismissed with costs.

COUNSEL: *Walter Banks; Hubert Rose.*

SOLICITORS: *Stow, Preston & Lyttelton*, for *Andrew Walsh and Bartram*, Oxford; *Steadman, Van Praagh & Gaylor.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

Societies.

Birmingham Law Society.

The Annual General Meeting of this Society was held at the Law Library, on Wednesday, the 2nd inst., under the presidency of Mr. R. A. Pinsent, and we have the pleasure in giving the following extracts from an interesting report submitted by the committee for the year ended 31st December 1926:—

OFFICERS AND COMMITTEE.—Immediately after the last Annual Meeting Mr. R. A. Pinsent was elected President; Mr. C. H. Sanders re-elected Vice-President; and Mr. Wilfred C. Matthews was re-elected Hon. Secretary and Treasurer. At the last Annual Meeting there were nine vacancies on your Committee, and the following gentlemen were elected to fill the same, viz.:—Messrs. R. A. Pinsent, T. Cooksey, T. H. Pepper, Gardner Tyndall, Stanley Smith, T. Foley Bache, L. B. Chatwin, H. W. Lyde and S. Vernon.

In accordance with the provisions of the Articles of Association, the following eight members of your Committee retire, viz.:—Sir David Davis, Messrs. E. P. Beale, E. R. Bickley, H. B. Carslake, E. Ekin, G. Huggins, S. Morris and L. Arthur Smith. Of those Messrs. Bickley, Carslake, Huggins and Smith have been nominated by your Committee as eligible for re-election.

MEMBERS.—The membership of the Society shows a net increase of five as compared with the previous year. Four members have resigned, eight have died, three have ceased under Article 11 of the Articles of Association, and twenty new members have been elected, the number on the register on 31st December, 1926, being 417. Dr. A. H. Coley has continued to represent the Society as an ordinary member, and Mr. R. A. Pinsent as an extraordinary member, on the Council of The Law Society. Dr. A. H. Coley was, in July last, elected President of The Law Society.

Your Committee report, with regret, the death of the following members: Messrs. E. Caddick, W. C. Checkley,

C. H. Darby, T. Davis, T. J. B. Hasell, Sydney Mitchell, J. Rowlands and E. Westwood. Mr. Edward Caddick was one of the oldest practising solicitors in the Midlands, having been admitted in 1856, and had been a member of this Society since 1872.

STAFF.—Your Committee record, with regret, the death of Mr. William Stanley, which took place on 24th April, 1926. For nearly thirty years Mr. Stanley had occupied the position of librarian to the Society, and his loss will be felt by a large circle of members, who appreciated the courtesy and industry with which he carried out his duties, and the wide knowledge of professional literature which he possessed. Your Committee have appointed Mrs. E. M. Vickery, previously assistant librarian, to the post of librarian, and have engaged the services of an assistant, who took up his duties on 14th June, 1926.

LAW SOCIETY PROVINCIAL MEETING.—Soon after Mr. A. H. Coley had been elected Vice-President of the Law Society for the year 1925-26, a general desire was expressed that the Law Society should be invited to hold the Provincial Meeting for 1926 in Birmingham, during the year of his presidency. The last occasion upon which the meeting had been held in Birmingham was in 1908. It was, however, found on enquiry that the Sheffield Society had already invited The Law Society to hold the Provincial Meeting for 1926 in their city.

Correspondence accordingly ensued with the Sheffield Society, whose committee, recognising the special interest felt by the Birmingham Society in desiring to have the meeting held in Birmingham, agreed to withdraw their invitation. Your Committee desire to place on record their appreciation of the very courteous action of the Sheffield Society in waiving their right of precedence. Following on this, your Committee invited the Council of The Law Society to hold the meeting in Birmingham on 27th, 28th, 29th and 30th September, 1926. This invitation was accepted by the Council, and early in the year a sub-committee was nominated, consisting of the officers, various members of your Committee, and other members of the Society. A provisional programme was drafted and circulated to members, together with an appeal for funds to defray the expenses of the meeting. This appeal resulted in the subscription of £828 9s., a sum which proved just sufficient to meet the expenses. Altogether, 360 members of The Law Society announced their intention of attending the meeting. Of these, 245 were members practising in Birmingham and 115 members practising in other places, of whom only eighty-three actually attended. There were fifty-seven lady visitors. The number of visitors was less than that present on previous occasions when the meeting has been held in Birmingham, and it is thought that the prolonged coal stoppage of 1926 had an unfavourable effect on the attendance.

Your Committee record their thanks to the officers and committees of the Shropshire, Warwickshire and Worcestershire Law Societies for their assistance in the local arrangements for the excursions to their districts on 30th September, and for the hospitality extended to members joining these excursions.

Your Committee are pleased to report that the whole of the arrangements for the meeting were satisfactorily carried out in accordance with the programme, and desire again to thank the Hon. Secretary for his unfailing tack and zeal, which so largely contributed to the success of the meeting.

The Committee also record with great pleasure that the occasion of this meeting was marked by the bestowal on Mr. A. H. Coley, by the Birmingham University, of the Honorary Degree of Doctor of Laws.

POOR PERSONS PROCEDURE.—The Committee nominated under the Poor Persons Rules, 1925, referred to in last year's report, received the approval of the Lord Chancellor, and commenced its work on 6th April, 1926, that being the day on which the new procedure was brought into force. It was decided in the first place that two members of the Committee should sit twice a week at the library to interview applicants and fill up their papers, and that the full Committee should meet once a month to consider completed applications and grant certificates. It was found that this procedure led to delay in disposing of applications, and the Committee has now appointed a part-time clerk, who interviews applicants in the first instance and completes their papers. Three members of the Committee sit at the library in rotation one evening in each week, and all applicants whose papers have been completed during the previous week attend before these members, bringing their witnesses, if required, and have their cases disposed of. The full Committee meets once every quarter to co-ordinate the work and deal with any case of special difficulty.

Up to 31st December, 1926, 195 applications had been received, and eighty-three certificates had been issued. A classification of these cases is printed in Appendix C, from which it will be seen that the majority were matrimonial cases.

Your Committee are pleased to report that the profession in Birmingham have responded readily to the call made upon them under the new Rules, and that the few solicitors or firms who have declined so far to take up cases have done so on special grounds. So far as can be seen at present, it will not be necessary for more than one case per annum to be undertaken in any office in Birmingham. Some additional work has been thrown on the profession locally owing to the necessity of finding solicitors in Birmingham to act as agents for solicitors in districts where poor persons' matrimonial causes cannot, under the new Rules, be commenced and prosecuted in the local High Court Registry, and are, therefore, commenced in the Birmingham District Registry. Your Committee are of the opinion that there is no reason for restricting the number of registries in which these proceedings can be taken, and they propose to make representations in the proper quarter to have the number extended.

POOR MAN'S LAWYERS' ASSOCIATION, BIRMINGHAM.—The establishment of the poor persons committee does not affect the work of the Poor Man's Lawyers' Association, which continues to give legal advice as heretofore to persons too poor to pay for it. The committee and the association work in concert, the association transmitting to the committee cases which come to its notice of the kind that will, in future, be dealt with by the committee.

The honorary secretary of the association is Mr. F. C. Minshull, The Council House, Birmingham, who will be glad to hear from any member willing to assist in the work. The Society's representatives on the committee of the association are Messrs. E. R. Bickley and Gardner Tyndall.

EMPLOYMENT OF LAY AGENTS.—A revised scale of charges proposed to be made by London solicitors for work undertaken by lay agents was considered by the Associated Provincial Law Societies, and a resolution was passed adopting the scale with any necessary additions and modifications. The revised scale is as follows :—

Lodging papers for Probate and Letters of Administration :—
Gross value of estate, real and personal :

Up to £500	£0 15 0
£500 to £5,000	£1 11 6
Over £5,000	£2 12 6

Applicable to ordinary cases for work in connection with lodging of papers to lead to Grant of Probate or Letters of Administration, and obtaining Grant.

Cases for Counsel	Flat rate of	£0	10	0
Adjudication of Stamp Duty	Flat rate of	£0	6	8
Lodging papers for Registration of Companies, including obtaining Certificate of Incorporation	Flate rate of	£0	10	0

R. A. PINSENT,
President.
WILFRED C. MATHEWS,
Hon. Secretary.

February, 1927.

Legal Notes and News.

Professional Announcements.

(2s. per line).

Mr. E. J. BETTSON, A.C.A., and Mr. R. C. FIELDER, A.C.A., announce that they have now retired from the firm of Moore, Stephens, Futcher, Head & Co., Chartered Accountants, 4, London Wall-avenue, E.C.2, and have commenced in practice under the style of Bettson, Fielder & Co., 274, Gresham House, Old Broad-street, E.C.2. Telephone: London Wall 7205/6.

THE KING'S NEW TITLE.

The text of the Royal and Parliamentary Titles Bill, which was introduced into the House of Commons by the Home Secretary on the 1st inst. states that its object is "to provide for the alteration of the Royal Style and Titles and of the Style of Parliament and for purposes incidental thereto." It consists of the following three clauses:—

1. It shall be lawful for His Most Gracious Majesty, by His Royal Proclamation under the Great Seal of the Realm, issued within six months after the passing of this Act, to make such alteration in the style and titles at present appertaining to the Crown as to His Majesty may seem fit.

2. (1) Parliament shall hereafter be known as and styled the Parliament of the United Kingdom of Great Britain and Northern Ireland; and accordingly, the present Parliament shall be known as the Thirty-fourth Parliament of the United Kingdom of Great Britain and Northern Ireland, instead of the Thirty-fourth Parliament of the United Kingdom of Great Britain and Ireland.

(2) In every Act passed and public document issued after the passing of this Act the expression "United Kingdom" shall, unless the context otherwise requires, mean Great Britain and Northern Ireland.

3. This Act may be cited as the Royal and Parliamentary Titles Act, 1927.

It will no doubt be within the recollection of our readers that the Imperial Conference proposed that, as a result of the establishment of the Irish Free State, the title of the King should be changed to "George V., by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the seas, King, Defender of the Faith, Emperor of India."

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday Mar. 14	Mr. Ritchie	Mr. More	Mr. More	Mr. Jolly
Tuesday .. 15	Synge	Jolly	Jolly	More
Wednesday . 16	Hicks Beach	Ritchie	More	Jolly
Thursday .. 17	Bloxam	Synge	Jolly	More
Friday 18	More	Hicks Beach	More	Jolly
Saturday .. 19	Jolly	Bloxam	Jolly	More

Date.	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday Mar. 14	Mr. Bloxam	Mr. Hicks Beach	Mr. Ritchie	Mr. Synge
Tuesday .. 15	Hicks Beach	Bloxam	Synge	Ritchie
Wednesday . 16	Bloxam	Hicks Beach	Ritchie	Synge
Thursday .. 17	Hicks Beach	Bloxam	Synge	Ritchie
Friday 18	Bloxam	Hicks Beach	Ritchie	Synge
Saturday .. 19	Hicks Beach	Bloxam	Synge	Ritchie

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5%. Next London Stock Exchange Settlement, Thursday, 24th March, 1927.

	Middle Price 9th Mar.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	85 9/16	4 13 6	—
Consols 2½%	54⅞	4 10 6	—
War Loan 5% 1929-47	101⅛	4 18 6	4 19 6
War Loan 4½% 1925-45	95⅞	4 14 0	4 17 6
War Loan 4% (Tax free) 1929-42 ..	101¼	3 19 0	3 18 0
War Loan 3½% 1st March 1928 ..	98⅞	3 11 0	4 12 0
Funding 4% Loan 1960-90	87⅛	4 12 0	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years ..	91½	4 7 6	4 10 0
Conversion 4½% Loan 1940-44 ..	96 5/16	4 13 6	4 16 0
Conversion 3½% Loan 1961	75 1/16	4 13 6	—
Local Loans 3% Stock 1921 or after ..	62⅞	4 15 6	—
Bank Stock	254	4 14 0	—
India 4½% 1950-55	91½	4 19 0	5 2 6
India 3½%	68¼	5 1 6	—
India 3%	59½	5 1 0	—
Sudan 4½% 1939-73	94¼	4 16 0	4 19 0
Sudan 4% 1974	84	4 15 0	4 18 0
Transvaal Government 5% Guaranteed 1923-53 (Estimated life 19 years) ..	81¼	3 14 0	4 12 0
Colonial Securities.			
Canada 3% 1938	83½	3 11 6	4 18 0
Cape of Good Hope 4% 1916-36 ..	92½	4 7 0	5 1 0
Cape of Good Hope 3½% 1929-49 ..	79½	4 8 6	5 1 0
Commonwealth of Australia 5% 1945-75	100⅝	5 0 0	5 0 0
Gold Coast 4½% 1956	94½	4 15 6	4 17 6
Jamaica 4½% 1941-71	91¼	4 18 0	5 0 0
Natal 4% 1937	92	4 7 0	5 0 0
New South Wales 4½% 1935-45 ..	87½	5 3 0	5 11 6
New South Wales 5% 1945-65	95½	5 5 0	5 6 6
New Zealand 4½% 1945	95	4 15 0	4 18 6
New Zealand 4% 1929	98½	4 1 0	5 2 6
Queensland 5% 1940-60	96½	5 4 0	5 6 0
South Africa 5% 1945-75	101½	4 18 6	4 19 6
S. Australia 5% 1945-75	98⅝	5 1 6	5 2 6
Tasmania 5% 1932-42	100	5 0 0	5 1 0
Victoria 5% 1945-75	100	5 0 0	5 1 0
W. Australia 5% 1945-75	99¼	5 0 6	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	66½	4 16 0	—
Birmingham 5% 1946-56	101½	4 19 0	5 0 6
Cardiff 5% 1945-65	100½	4 19 6	5 0 0
Croydon 3% 1940-60	68¾	4 7 6	5 0 0
Hull 3½% 1925-55	78½	4 10 0	5 0 0
Liverpool 3½% on or after 1942 at option of Corpn.	72½	4 17 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	51¾	4 17 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4 15 0	—
Manchester 3% on or after 1941 ..	62½	4 16 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63xd	4 14 6	4 16 0
Metropolitan Water Board 3% 'B' 1934-2003	64	4 13 6	4 15 0
Middlesex C. C. 3½% 1927-47	81½	4 6 0	4 18 0
Newcastle 3½% irredeemable	71½	4 18 6	—
Nottingham 3% irredeemable	62¼	4 17 6	—
Stockton 5% 1946-66	100½	4 19 6	4 19 6
Wolverhampton 5% 1946-56	102	4 18 0	4 19 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture ..	81½	4 18 0	—
Gt. Western Rly. 5% Rent Charge ..	99	5 1 0	—
Gt. Western Rly. 5% Preference ..	94	5 6 0	—
L. North Eastern Rly. 4% Debenture..	75½	5 6 0	—
L. North Eastern Rly. 4% Guaranteed	72½	5 10 0	—
L. North Eastern Rly.4% 1st Preference	67	5 19 0	—
L. Mid. & Scot. Rly. 4% Debenture ..	79	5 1 0	—
L. Mid. & Scot. Rly. 4% Guaranteed ..	78	5 2 6	—
L. Mid. & Scot. Rly. 4% Preference ..	73¾	5 8 0	—
Southern Railway 4% Debenture ..	80½	4 19 6	—
Southern Railway 5% Guaranteed ..	97½	5 2 6	—
Southern Railway 5% Preference ..	94	5 6 0	—